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Federal Contract Compliance Manual

U.S. Department of Labor
Employment Standards Administration
Office of Federal Contract Compliance Programs

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FOREWORD

This manual details the policies and procedures that should normally be followed by all Office of Federal Contract Compliance Programs (OFCCP) personnel in enforcing the rules and regulations in Title 41 of the Code of Federal Regulations, Chapter 60. This manual conforms to the requirements of Executive Order 12067.

Further guidance on policies and procedures will be published as amendments to this manual.

Deviations from the instructions in this manual will not be made without the approval of the Director, OFCCP.

This manual will be used as:

- An instruction manual for implementing specific enforcement procedures
- A uniform body of standards for supervisors and other persons responsible for reviewing or auditing the implementation of of enforcement procedures
- A common reference source for help in resolving questions of policy or procedures

Users of this manual are encouraged to submit recommended changes to the Director, OFCCP.

Note: The terms "reasonable" and "significant," as used in this manual, are not statistical terms in the professional or technical sense of such words unless the manual specifically so states.

FEDERAL CONTRACT COMPLIANCE MANUAL

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CHAPTER 1. GENERAL

1-10 Purpose of the Federal Contract Compliance Manual. As the primary procedural aid of the Equal Opportunity Specialist (EOS), the Contract Compliance Manual:

1-10.1 Outlines in detail procedures which should normally be used by the EOS in conducting all phases of compliance review and complaint investigations.

1-10.2 Provides standards supervisory and managerial personnel should normally use in judging the adequacy of compliance review files.

1-10.3 Serves as a reference manual for all Office of Federal Contract Compliance Programs (OFCCP) personnel to use in answering questions relating to compliance review procedures and policies.

1-20 Relationship of the Manual to Other OFCCP Documents.

1-20.1 Relationship to Documents Establishing OFCCP Authorities. All procedures outlined in this manual and all related policies promulgated herein are based upon Section 503 of the Rehabilitation Act of 1973, as amended, Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, Executive Order 11246, as amended, and the Secretary of Labor's implementing regulations at 41 CFR Chapter 60. When appropriate, the manual provides citations to the relevant regulatory sections.

1-20.2 Relationship to OFCCP Documents Enumerating Policies and Procedures. The OFCCP Directives System provides the method for distributing interpretations of policy and instructions for action. As supplementary information for use with this manual, the System's output is classified in two collections of documents:

1-20.2a Administrative and Operating Notices provide directions for supervisory, managerial, and other review personnel at area, regional, and national office levels to use in processing compliance review case files and other items relating to enforcement, conciliation and the application of sanctions and penalties.

1.20-2b Policy Issuances, classified to pertinent parts of 41 CFR Chapter 60, establish OFCCP positions and interpret the regulations.

1-30 Changes to the Text of the Federal Contract Compliance Manual. The manual is subject to interpretative and clarifying changes. All changes to the text of the manual, including all additions and deletions, are effected through the OFCCP Directives System.

1-40 Organization of the Federal Contract Compliance Manual. Chapters spell out each phase of the compliance review or specialized review (such as preaward compliance reviews, complaint investigations, and construction compliance reviews).

1-50 OFCCP's Mandates--Executive Orders and Statutes. The programs OFCCP administers are implemented under or directly affected by the following statutes and Executive Orders:

1-50.1 Executive Order 11246 (30 FR 12319)(September 28, 1965), effective October 24, 1965, prohibits employment discrimination on the basis of race, color, religion, and national origin by Federal contractors, subcontractors, and federally assisted construction contractors and subcontractors. In addition, the Executive Order requires affirmative action, regardless of whether discrimination has ever occurred, to ensure that applicants and employees are treated without regard to race, color, religion or national origin. The Order delegated administrative responsibility to the Secretary of Labor, who in turn delegated responsibility in most respects to the Director of a newly created Office of Federal Contract Compliance.

1-50.2 Executive Order 11375 (32 FR 14303)(October 17, 1967), effective October 13, 1968, amended Executive Order 11246 to add sex as a basis for nondiscrimination and affirmative action.

1-50.3 Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 (P.L. 93-508, 88 Stat. 1593, 38 U.S.C. 2012) requires Federal contractors and subcontractors with contracts of $10,000 or more to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era.

1-50.4 Executive Order 12086 (43 FR 46501) (October 10, 1978), effective October 8, 1978, amended Executive Orders 11246 and 11375 to consolidate the Federal Contract Compliance Program into the Department of Labor.

1-50.5 Section 503 of the Rehabilitation Act of 1973 (P.L. 93-112, 87 Stat. 393, 29 U.S.C. 793), as amended (P.L. 93-516, 88 Stat. 1619; P.L. 95-602, 92 Stat. 2955), requires Federal contractors and subcontractors with contracts in excess of $2,500 to take affirmative action to employ and advance in employment qualified handicapped individuals. Executive Order 11758, 39 FR 2075

(January 17, 1974) authorizes the Secretary of Labor to issue regulations implementing Section 503.

1-50.6 Executive Order 11701, 38 FR 2675 (January 29, 1973) authorizes the Secretary of Labor to issue regulations pertaining to the mandatory listing of job openings with State employment services under Section 402.

1-60 Glossary of Terms.

1-60.1 Accessibility. A handicapped individual's ability to approach, enter and use a contractor's facilities easily, particularly such areas as personnel office, worksite, and public areas.

1-60.2 Adverse impact. A substantially different rate of selection in hiring, promotion, transfer, training or in other employment decisions which works to the disadvantage of members of a race, ethnic or sex group. If such rate is less than 80% of the selection rate of the race, sex, or ethnic group with the highest rate of selection, this will generally be regarded as evidence of adverse impact. But see 41 CFR 60-3.4(D). Compare to disparate treatment (section 1-60.32) and underutilization (section 1-60.103) which are not based on the 80% rule. Adverse impact is more fully explained in 41 CFR 60-3.4.

1-60.3 Affected class. One or more employees, former employees, or applicants who have been denied employment opportunities or benefits because of discriminatory practices and/or policies by the contractor, its employees, or agents. Evidence of the existence of an affected class requires: (1) identification of the discriminatory practices; (2) identification of the effects of discrimination; and (3) identification of those suffering from the effects of discrimination.

1-60.4 Affirmative action. Those results-oriented actions which a contractor by virtue of its contracts must take to ensure equal employment opportunity. Where appropriate, it includes goals to correct underutilization, correction of problem areas, etc. It may also include relief such as back pay, retroactive seniority, make-up goals and timetables, etc. See, also, 41 CFR 60-1.4(a)(1), 60-250.4(a) and 60-741.4(a). See, in addition, 41 CFR 60-2.1, 60-2.2., 60-2.10, 60-2.11, 60-2.12, etc. and 60-4.2, 60-4.3, etc.

1-60.5 Affirmative action clauses. Clauses included in Federal contracts and subcontracts detailing the affirmative action requirements for disabled veterans, Vietnam era veterans and handicapped workers. "Affirmative action for disabled veterans and veterans of the Vietnam era" is included in all Federal contracts and subcontracts of $10,000 or more. "Affirmative action for handicapped workers" is included in all Federal contracts and subcontracts in excess of $2,500. Refer to "Equal Opportunity Clause" in 1-60.41.

1-60.6 Affirmative Action Program. A written, results-oriented program, meeting the requirements of 41 CFR Part 60-2, 60-250.5 and 60-741.5, in which a contractor details the steps it will take to ensure equal employment opportunity, including, where appropriate, remedying discrimination against an affected class, etc.

1-60.7 Aggregate workforce. For geographic areas designated by OFCCP under 41 CFR 60-4.6, the total workforce of a covered construction contractor. The term encompasses all of the contractor's workforce, including those performing on federally funded or assisted and all nonfederal projects within the designated geographical area.

1-60.8 American Indian or Alaskan Native. A person with origins in any of the original peoples of North America and who maintains cultural identification through tribal affiliation or community recognition.

1-60.9 Annual goal. A yearly target expressed as both a number and a percentage, for placing minorities or females in a job group for which underutilization exists. It should normally be the maximum rate that can be achieved by making every good-faith effort.

1-60.10 Anti-nepotism policy. Policies or practices that limit the simultaneous employment by a contractor of two or more members of the same family.

1-60.11 Applicant for employment. A person who files a formal application, or by some other means (resume, letter, request, etc.) indicates a specific desire to be considered for employment. An applicant log should record requests for employment made in person whether or not an application form is completed.

1-60.12 Applicant flow data. A statistical compilation of employment applicants showing the specific numbers of each racial, ethnic, and sex group who applied for each job title (or group of job titles requiring similar qualfications) during a specified time period.

1-60.13 Apprentice. A worker who is employed to learn a skilled trade in a structural program of on-the-job training and related instruction.

1-60.14 Asian or Pacific Islander. A person with origins in any of the original peoples of the Far East, Southeast Asia, the

Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Republic, and Samoa.

1-60.15 Availability. The percentage of minorities or women who have the skills required for entry into a specific group, or who are capable of acquiring them.

1-60.16 Back pay. Compensation for past economic losses (such as lost wages, fringe benefits, etc.) caused by a contractor's discriminatory employment practices, including, e.g., its failure to remedy the continuing effects of past practices. Refer to "front pay" in section 1-60.80.

1-60.17 Black, not of Hispanic origin. A person with origins in any of the black racial groups of Africa who is also not of Hispanic origin.

1-60.18 Bona fide occupational qualification (BFOQ). Employment in particular jobs may not be limited to persons of a particular sex, religion, or national origin unless the employer can show that sex, religion, or national origin is an actual qualification of performing the job. But refer to 2-250.2e.

1-60.19 Bump-back rights. Right of an employee to displace another in the event of a layoff or reduction in force.

1-60.20 Business necessity. Justification for an otherwise prohibited employment practice based on a contractor's proof that: (1) the otherwise prohibited employment practice is essential for the safety and efficiency of the business, and (2) no reasonable alternative with a lesser impact exists.

1-60.21 Career counseling. Discussion between a contractor and an employee or group of employees to plan a course of training and advancement for the employee or group.

1-60.22 Compliance. Adherence to the applicable equal opportunity clause or affirmative action clauses. In establishing methods for carrying out its obligations, the contractor shall follow the requirements of the applicable regulations of 41 CFR Chapter 60, and Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and/or Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974.

1-60.23 Conciliation. Discussion between OFCCP and a contractor aimed at resolving findings of noncompliance.

1-60.24 Conciliation agreement. A written agreement between a contractor and OFCCP that details specific contractor commitments to resolve identified compliance deficiencies which are set forth in the agreement.

1-60.25 Continuing discrimination. Where individuals or groups suffer the current effects of past discrimination which have not been remedied. This may include, for example, loss of income or other benefits, lower job seniority, or other injuries.

1-60.26 Construction contract. Any contract for the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term includes supervision, inspection and other onsite functions incidental to actual construction.

1-60.27 Contracting agency. Any department, agency, establishment, or instrumentality in the executive branch of the government, including any wholly owned Government corporation, which enters into contracts. With respect to Federally assisted construction contracts, this term also includes the grant or aid recipient.

1-60.28 Deficiency. Noncompliance with a requirement of Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, including implementing rules, regulations, or orders.

1-60.29 Dictionary of Occupational Titles. Publication of the Employment and Training Administration, U. S. Department of Labor, that classifies more than 20,000 jobs based on their duties and commonly required qualifications.

1-60.30 Disabled veteran. A person entitled to compensation under laws administered by the Veterans Administration for disability, or a person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty.

1-60.31 Discrimination. Illegal treatment of a person or group (either intentional or unintentional) based on race, color, national origin, religion, sex, handicap or veteran status. The term also includes the failure to remedy the effects of past discrimination.

1-60.32 Disparate treatment. Differential treatment of employees or applicants on the basis of their race, color, religion, sex, national origin, handicap, or veteran's status (including, for example, the situation where applicants or employees of a particular race or sex are required to pass tests or meet educational requirement, etc., which similarly situated contemporary applicants or employees of another race or sex were not required to take or meet.)

1-60.33 Dun's number. A special number assigned to a business by Dun & Bradstreet for computer identification.

1-60.34 EEO-1 report (also termed Standard Form 100). The Equal Employment Opportunity Employment Information Report, an annual report filed with the Joint Reporting Committee (composed of OFCCP and EEOC) by employers subject to the Executive Order or to Title VII of the Civil Rights Act of 1964, as amended. This report details the race, ethnic, and sex composition of an employer's work force by job category.

1-60.35 EEO-2 report. The Equal Employment Opportunity Apprenticeship Information Report, an annual report filed with the EEOC Survey Branch by all joint labor-management apprenticeship committees. This report details the race, ethnic, and sex composition of participants in apprenticeship programs.

1-60.36 EEO-3 report. The Equal Employment Opportunity Labor Union Report, an annual report filed by labor unions with the EEOC Survey Branch. It contains information on the race, ethnic, and sex composition of union membership and referrals for employment.

1-60.37 EEO-4 report. The Equal Employment Information Report, an annual report filed by State and local governments with the State and Local Reporting Committee (composed of EEOC, HEW, HUD, DOT, OPM and OFCCP). It sets forth the race, ethnic, and sex composition of their work force by activity and job classification.

1-60.38 EEO-5 report. The Equal Employment Opportunity Elementary-Secondary Staff Information Report, an annual report filed with the School Reporting Committee (composed of EEOC, HEW/OCR, and the National Center for Education Statistics). It details the race, ethnic, and sex composition by job category, of elementary and secondary school staffs.

1-60.39 EEO-6 report. The Equal Employment Opportunity Higher Education Staff Information Report, an annual report filed with the Higher Education Reporting Committee (composed of OFCCP, HEW/OCR and EEOC) by colleges and universities. It details by job category, the race, ethnic, and sex composition of their staffs.

1.60.40 Employment offer. An employer's offer to an applicant for employment, usually in a specified job.

1-60.41 Equal opportunity clause. The seven subparagraphs contained in Section 202 of Executive order 11246, as amended, and required to be part of all contracts covered by the Executive Order. Pursuant to 41 CFR 60-1.4(e) and 60-4.9, the clause is a part of all covered contracts whether or not it is physically incorporated into the contract and whether or not the contract is written.

1-60.42 Exempt contractor. Any Government contractor or subcontractor exempt from some or all of the provisions of 41 CFR Chapter 60 according to the standards set forth in 41 CFR 60-1.5, 60-250.3, or 60-741.3.

1-60.43 Federally assisted construction contract. Refer to 41 CFR 60-1.3.

1-60.44 Focus job area. A unit of an establishment's workforce (such as a seniority unit, department, line of progression, or job title, as appropriate) in which minorities or women are concentrated or underrepresented relative either to their overall representation in the relevant workforce sector or to their availability for the jobs in question. This concept is related to determining the existence of discrimination rather than to the process of finding underutilization for the purpose of setting goals as part of the contractor's affirmative action program.

1-60.45 Fringe benefits. Medical, hospital, accident, life insurance, and/or retirement benefits, profit sharing, bonus plans, leave, and other terms and conditions of employment other than wage or salary compensation.

1-60.46 Front pay. Compensation provided an individual or group which begins when a remedy for alleged discrimination is agreed to and ends when the individual or group attains its "rightful place." Refer to "back pay" in section 1-60.23.

1-60.47 Goals for non-construction contractors. A contractor-established employment target for minorities or women where the contractor has identified underutilization of, or other employment problems relating to, minorities or women in certain job categories. The contractor agrees to make a good faith effort to achieve its goals. Goals are expressed as both numbers and percentages. They are not quotas. See 41 CFR Part 60-4 for construction contract goals.

1-60.48 Good cause. A legally acceptable defense for not having taken an action that would otherwise be required. "Good cause" for a violation of 41 CFR Chapter 60 can normally be demonstrated only by showing that a firm is/was not covered by the regulation allegedly violated, or exempt from the regulation.

1-60.49 Good faith efforts. Those actions required by 41 CFR Chapter 60, and those the contractor may voluntarily develop, to achieve compliance with the contract's equal opportunity and affirmative action clauses.

1-60.50 Government contract. A written or unwritten agreement or modification thereof between a contracting agency and any person or firm for the furnishing of supplies or services, or for the use of real or personal property, including lease arrangements (41 CFR 60-1.3).

1-60.51 Handicapped individual. Any person who (1) has a physical or mental impairment that substantially limits one or more of his or her major life activities; (2) has a record of such impairment, or (3) is regarded as having such an impairment. A handicap is "substantially limiting" if it is likely to cause difficulty in securing, retaining, or advancing in employment. Refer to Appendix A of 41 CFR Part 60-741.

1-60.52 Hispanic. A person of Mexican, Puerto Rican, Cuban, South American, or other Spanish culture or origin, regardless of race.

1-60.53 Impact ratio. For employment decisions which offer people employment opportunities (e.g. hire, promotion, training) the impact ratio for a group is the selection rate for the group divided by the selection rate for the group with the highest selection rate. For any adverse employment decision (e.g., termination, disciplinary action, layoff), the impact ratio is the (termination) rate of the group with the lowest rate divided by the (termination) rate for the group in question. Impact ratios are compared to the 80% rule of thumb to determine adverse impact under 41 CFR Part 60-3.4 (See Q&A #10-12).

1-60.54 Internal review procedure. A procedure by which an employer can adequately address and resolve a complaint of employment discrimination made by a handicapped individual, a disabled veteran, or a veteran of the Vietnam era (for example, grievance procedures under a collective bargaining agreement, EEO counselors, etc.).

1-60.55 Invitation to self-identify. An invitation by the contractor extended to all employees and applicants for employment who believe they are covered by Section 402 or 503 to identify themselves as handicapped or disabled for purposes of making reasonable accommodations and taking affirmative action on their behalf. All information obtained in response to such an invitation shall be kept confidential in accordance with 41 CFR 60-741.5(c) or 60-250.5(c).

1-60.56 Job area. Any subunit of a blue- or white-collar work force sector (such as a department, job group, job title).

1-60.57 Job area acceptance range (JAAR). A sliding scale of minority or female representation in job areas based on their percentages in the contractor's work force. JAAR is a mathematical formula used to identify possible affected classes, and concentration and underrepresentation of minorities and women in the contractor's work force. JAAR is not the same as the process for determining underutilization nor is it conclusive proof of discrimination. Refer to section 1-60.151.

1-60.58 Job categories. The nine designated categories of the EEO-1 report: officials and managers, professionals, technicians, sales workers, office and clerical, craft workers (skilled), operatives (semi-skilled), laborers (unskilled), and service workers.

1-60.59 Job description. A written statement detailing the duties of incumbents in a particular job title.

1-60.60 Job group. One or more positions having similar content, wage rates, and opportunities. Refer to 41 CFR 60-2.11(b).

1-60.61 Job specification. Minimum qualifications necessary to perform a job.

1-60.62 Layoff. The process by which workers are removed from the active payroll to the inactive payroll during a reduction in force (RIF).

1-60.63 Life activities. Activities including but not limited to communication, ambulation, self care, socialization, evaluation, vocational training, employment, transportation, or adaptation to housing.

1-60.64 Line of progression. Refer to progression line charts, section 1-60.117.

1-60.65 Line of promotion. Refer to progression line charts, section 1-60.117.

1-60.66 Mandatory job listing. The provision under Section 402 of the Vietnam Era Veterans Readjustment Assistance Act which requires covered employers to list suitable job openings with the local office of the State Employment Service.

1-60.67 Minorities. All persons classified as black (not of Hispanic origin), Hispanic, Asian, or Pacific Islander, American Indian or Alaskan native.

1-60.68 New hire. A worker added to an establishment's payroll for the first time.

1-60.69 Noncompliance. Failure to follow the conditions set out in a contractor's equal opportunity or affirmative action clauses, and the regulations applicable through those clauses (i.e., 41 CFR Chapter 60).

1-60.70 Organizational unit. A group of closely related jobs or functions (for example, a department, division, branch, or section) functioning as a single unit.

1-60.71 Physical and mental job qualification requirements. Physical and mental health standards established by contractors for determining an applicant's or employee's ability to perform a job.

1-60.72 Placement. Assignment of a person to a job.

1-60.73 Preemployment medical examination. An evaluation by the employer of the health status of applicants or employees made through written questionnaires or examinations by company-designated physicians as part of the hiring process.

1-60.74 Problem job groups. A job group for which a compliance question must be resolved (for example, missed goals).

1-60.75 Progression line charts. Lists of job titles in a broad job family, generally starting with the less difficult, lower paying jobs and progressing to the more difficult, higher paying jobs.

1-60.76 Progression sequences. A hierarchy of job titles through which an employee may progress in following a career path or ladder. Such sequences generally begin with lower paying job titles and ascend, through intermediate job titles, to higher paying job titles.

1-60.77 Promotable minorities and women. Minorities and women eligible for promotion on the basis of selection criteria which are valid under 41 CFR Part 60-3.

1-60.78 Promotion. Any personnel action resulting in movement to a position affording higher pay, or greater rank, and/or provides for greater skill or responsibility, or the opportunity to attain such.

1-60.79 Qualified disabled veteran. A disabled veteran as defined in section 1-60.51 who is capable of performing a particular job with reasonable accommodation to his or her disability.

1-60.80 Qualified handicapped individual. A handicapped individual as defined in 41 CFR 60-741.2 who is capable of performing a particular job with reasonable accommodation to his or her handicap.

1-60.81 Reasonable accommodation (402/503). Alterations, adjustments or changes in the job, the workplace and/or term or condition of employment which will enable an otherwise qualified handicapped individual or disabled veteran to perform a particular job successfully, as determined on a case by case basis depending on the individual circumstances.

1-60.82 Reasonable accommodation (60-50). Refer to 3-130.1b and 130.2c.

1-60.83 Recall. Returning workers to active employment from layoff.

1-60.84 Recruiting and training agency. Any agency, firm, or person that refers workers to a contractor, or which provides or supervises apprenticeship or training for a contractor.

1-60.85 Referral. The process of sending job seekers to employers by community organizations, employment agencies, labor organizations or other sources.

1-60.86 Regarded as handicapped. An individual who has no physical or mental impairment, or whose impairment does not substantially limit major life activities, but who is treated by a contractor as having such a limitation.

1-60.87 Rehire. To return a worker to the payroll after a complete break in service.

1-60.88 Relevant labor market area. Geographic area used to determine availability (Refer to section 2-160.5).

1-60.89 Requisite skills. Those skills that make a person eligible for consideration for employment in a job. (The term should not be confused with the total representation of minorities or women in job titles of the contractor under review or with the population of such persons in the relevant labor area.)

1-60.90 Rightful place. The job that an affected-class member would now hold had there been no discrimination.

1-60.91 Skills inventory. A list of persons and their skills, kept by a contractor to encourage maximum utilization of the skills of applicants or employees.

1-60.92 Standard Industrial Classification Code (SIC). A numerical coding system developed under the sponsorship of the Office of Management and Budget that classifies establishments by principal activity or service.

1-60.93 Subcontract. Refer to 41 CFR 60-1.3.

1-60.94 Substantially limits. Where a handicap affects an individual's employability to such a degree that he/she is likely to have difficulty in securing, retaining or advancing in employment.

1-60.95 Support data. Statistical data, documentation, and other materials regarding employment practices; generally used in development, support and/or justification of an affirmative action program.

1-60.96 Systemic discrimination. Employment policies or practices which, though often neutral on their face, serve to differentiate or to perpetuate a differentiation in terms of conditions of employment of applicants or employees because of their race, color, religion, sex, national origin, handicap or veteran's status. Systemic discrimination normally relates to a recurring practice rather than to an isolated act of discrimination, and may include failure to remedy the continuing effects of past discrimination. Intent to discriminate may or may not be involved.

1-60.97 Termination. Separation of an employee from the active and inactive payroll.

1-60.98 Terms and conditions of employment. The entirety of the environment in which an employee works. The term encompasses all aspects of an employee's relationship with his or her employer and fellow employees, including: compensation, fringe benefits, physical environment, work-related rules, work assignments, training and education, and opportunities to serve on committees and decision-making bodies.

1-60.99 Training:

1-60.99a Formal. A structured program, often in a classroom setting, to develop an individual's skills and abilities. Some or all aspects of on-the-job training may fall into this category.

1-60.99b Informal. Experience-oriented training to increase an individual's skills and abilities. Typically, most aspects of on-the-job training fall into this category.

1-60.100 On-the-job training. The process of learning a job by actually performing it under close supervision or with assistance.

1-60.101 Vestibule training. Informal orientation provided by the contractor for the benefit of new employees.

1-60.102 Transfer. Movement from one position or function to another.

1-60.103 Underutilization. Employment of members of a race, ethnic, or sex group in a job or job group at a rate below their availabiity. The concept of underutilization includes any numerical disparity, and is not limited by the 80% rule applicable to concepts such as adverse impact. Underutilization for contractors subject to 41 CFR Part 60-2 is determined by conducting a job group analysis according to 41 CFR 60-2.11 (b).

1-60.104 Validation in accordance with OFCCP regulations entitled Uniform Testing and Selection Guidelines. The process that a contractor carries out under 41 CFR Part 60-3 to establish that an employee selection device such as a test or an education requirement is an unbiased predictor of performance on the job.

1-60.105 Veteran of the Vietnam era. A person who served on active duty for a period of more than 180 days, any part of which occurred between August 5, 1964 and May 7, 1975, and was discharged or released therefrom with other than a dishonorable discharge; or who was discharged or released from active duty for a service-connected disability if any part of such active duty was performed between August 5, 1964 and May 7, 1975; and who was so discharged or released within 48 months preceding an alleged violation of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, the affirmative action clause, or the regulations issued pursuant to the Act.

1-60.106 White, not of Hispanic origin. A person with origins in any of the original peoples of Europe, North Africa, or the Middle East who is not of Hispanic origin.

1-60.107 Willful violation. An act committed by a contractor who could be expected to know its consequences, or failure to act where a reasonable person would be expected to understand the result of such failure (for example, perpetuation of the effects of past discrimination by failure to change a seniority system).

1-60.108 Work force sector. Either the blue- or white-collar division of a contractor's total work force.

1-70 Glossary of General Abbreviations.

1-70.1 AAP Affirmative Action Program

1-70.2 AMIS Automated Management Information System

1-70.3 AO Area Office, OFCCP

1-70.4 AOD Area Office Director, OFCCP

1-70.5 ARA Assistant Regional Administrator, OFCCP

1-70.10 CEO Chief Executive Officer

1-70.11 CFR Code of Federal Regulations

1-70.12 CIDS Contractor Identification Data System

1-70.13 D&B Dun & Bradstreet

1-70.15 DOL Department of Labor

1-70.16 DRO Division of Regional Operations.

1-70.17 EEO Equal Employment Opportunity

1-70.20 EEOC Equal Employment Opportunity Commission

1-70.21 EO Executive Order

1-70.22 EOS Equal Opportunity Specialist

1-70.23 ESA Employment Standards Administration

1-70.24 ETA Employment and Training Administration

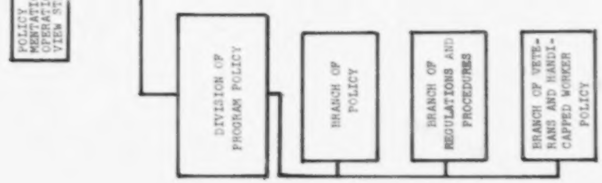
1-70.25 FOIA Freedom of Information Act

1-70.26 IRA Impact Ratio.

1-70.30 JAAR Job Area Acceptance Range

1-70.31 MIS Management Information System

1-70.32	NO	National Office, OFCCP
1-70.33	OAM	Office of Administrative Management, ESA
1-70.34	OFCCP	Office of Federal Contract Compliance Programs
1-70.35	OMB	Office of Management and Budget
1-70.40	OMBE	Office of Minority Business Enterprise
1-70.42	PCIR	Post Contract Implementation Report
1-70.43	PCO	Procuring Contracting Officer
1-70.44	RA	Regional Administrator, ESA
1-70.50	RO	Regional Office, OFCCP
1-70.51	SCRR	Standard Compliance Review Report
1-70.52	SIC	Standard Industrial Classification
1-70.53	SMSA	Standard Metropolitan Statistical Area
1-70.54	SOL	Solicitor of Labor
1-70.55	TERO	Tribal Employment Rights Office.
1-70.56	USES	United States Employment Service
1-80	Topical Index (Reserved).	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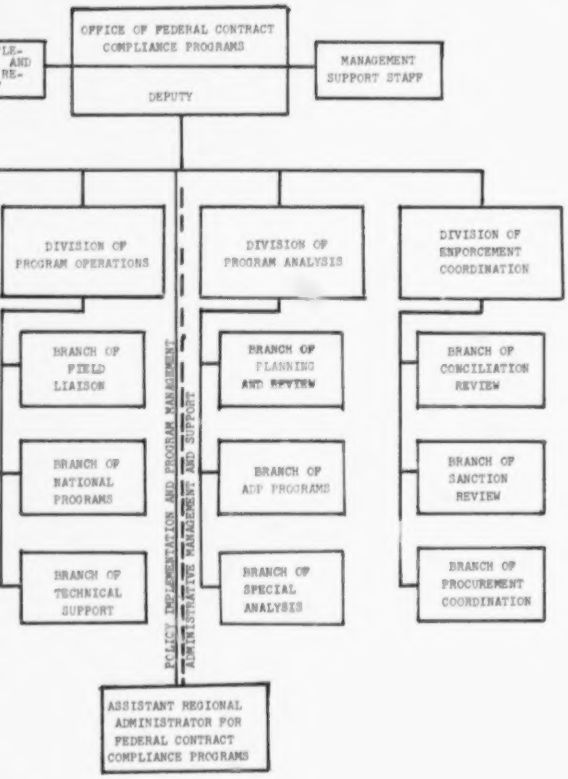
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DIVISION OF ENFORCEMENT COORDINATION
BRANCH OF FIELD LIAISON
BRANCH OF NATIONAL PROGRAMS
BRANCH OF TECHNICAL SUPPORT
BRANCH OF PLANNING AND REVIEW
BRANCH OF ADP PROGRAMS
BRANCH OF SPECIAL ANALYSIS
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BRANCH OF SANCTION REVIEW
BRANCH OF PROCUREMENT COORDINATION
POLICY IMPLEMENTATION AND PROGRAM MANAGEMENT
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ASSISTANT REGIONAL ADMINISTRATOR FOR FEDERAL CONTRACT COMPLIANCE PROGRAMS

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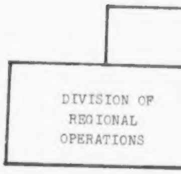
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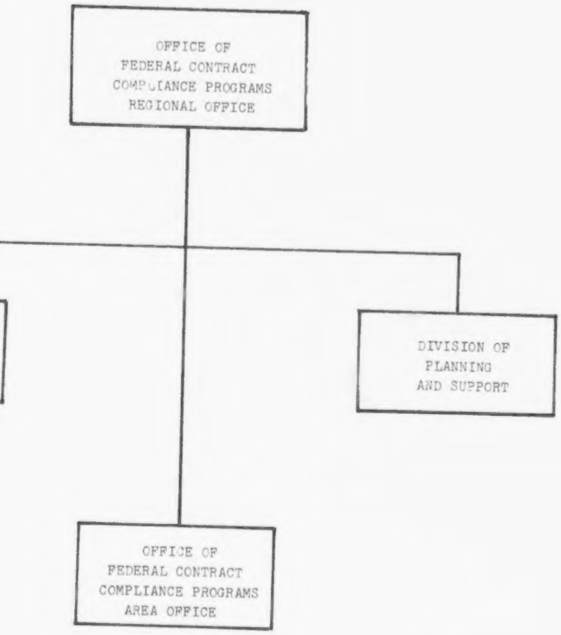
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AREA OFFICE

LIST OF OFCCP OFFICES

REGION	AREA OFFICE CITIES
I - Boston	Boston, MA
	Bridgeport, CT
	Hartford, CT
	Providence, RI
II - New York	Albany, NY
	Buffalo, NY
	Long Island, NY
	Newark, NJ
	New York City, NY
	San Juan, PR
	Syracuse, NY
	Trenton, NJ
	White Plains, NY
III - Philadelphia	Baltimore, MD
	Philadelphia, PA
	Pittsburgh, PA
	Reading, PA
	Richmond, VA
	Washington, DC
IV - Atlanta	Atlanta, GA
	Birmingham,AL
	Charlotte, NC
	Columbia, SC
	Jackson, MS
	Jacksonville, FL
	Louisville, KY
	Memphis, TN
	Miami, FL
	Nashville, TN
	Orlando, FL
	Raleigh, NC
V - Chicago	Chicago, IL - Loop
	Chicago, IL - North
	Chicago, IL - South
	Cleveland, OH - Central
	Cleveland, OH - Southwest
	Columbus, OH
	Detroit, MI - Central
	Detroit, MI - Southwest
	Gary, IN
	Grand Rapids, MI

	Indianapolis, IN - Northeast Indianapolis, IN - Northwest Milwaukee, WI Minneapolis, MN Peoria, IL
VI - Dallas	Albuquerque, NM Dallas, TX Fort Worth, TX Houston, TX Little Rock, AR New Orleans, LA San Antonio, TX Tulsa, OK
VII - Kansas City	Kansas City, MO Omaha, NB St. Louis, MO
VII - Denver	Denver, CO Salt Lake City, UT
IX - San Francisco	Honolulu, HI Los Angeles, CA Van Nuys, CA Phoenix, AZ San Diego, CA San Francisco, CA Oakland, CA San Jose, CA Santa Ana, CA
X - Seattle	Anchorage, AK Portland, OR Seattle, WA

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2-10 Purpose of Compliance Reviews. Compliance reviews are conducted to determine whether covered contractors and subcontractors are complying and, in the case of preaward reviews, whether potential contractors and subcontractors are complying and/or are able to comply with relevant provisions of 41 CFR Chapter 60 by not discriminating and by taking affirmative action to ensure equal employment opportunity without regard to race, color, religion, national origin, sex handicap, or covered veteran status and by acting in conformance with Federal regulations regarding employment of disabled and Vietnam Era veterans.

2-10.1 Relationship of OFCCP compliance activities to EEO Litigation or Court Orders.

2-10.1a If during the conduct of a compliance or preaward review, it is found that the contractor is involved in litigation or is under a court order on EEO matters, the EOS conducting the review should identify the EEO issues involved and bring the matter to the AOD's attention. The Regional Solicitor should be notified and his/her recommendation sought as to whether OFCCP should defer in whole or in part, to the litigation or court order. The EOS should then proceed with the compliance activity but should not conciliate those issues under litigation until instructions are received from the ARA who, upon advice from the Regional Solicitor, will determine whether OFCCP is to defer in whole or in part. Upon completion of the review, the SCRR or any other report should clearly identify the issues which were not considered and indicate the reason for their omission.

2-10.1b If doubt exists as to the effect of compliance activity upon litigation which has been initiated by other agencies of the Federal Government, state and local agencies or private parties or organizations, guidance should be immediately requested from the DOFCCP.

2-10.2 Relationship of OFCCP to Tribal Employment Rights Offices (TEROs)

2-10.2a Each ARA or a designee should contact the TEROs operating in the region to establish a liaison relationship. This liaison will have the following functions:

2-10.2a1 Provide technical assistance to TEROs as they may request.

2-10.2a2 Refer complaints of discrimination which TEROs may file to the proper Federal agency or AO for appropriate action.

2-10.2a3 Assist AO personnel in contacting the appropriate TERO prior to the conduct of a compliance review or investigation of a contractor operating near an Indian reservation.

2-15 Desk audit requirements. Desk audits are not a prerequisite to onsite compliance reviews, in every instance. However, except where the Director, OFCCP or the appropriate ARA (with approval from the Director) authorizes other procedures, the procedures set forth below should normally be followed in conducting compliance reviews of supply and service contractors.

2-20 Purpose of desk audits. Desk audits enable the EOS to review a contractor's compliance with its affirmative action and equal opportunity obligations at the particular establishment, and specifically to:

2-20.1 Acquire insight into personnel policies and procedures that could result in the denial of equal employment opportunity.

2-20.2 Examine data for indications that minorities, women, covered veterans or handicapped individuals may have been denied equal employment opportunity.

2-20.3 Identify areas of underutilization and assess the establishment of acceptable goals and timetables.

2-20.4 Make an initial assessment of AAP sufficiency, if implemented in good faith, to ensure equal employment opportunity.

2-20.5 Identify apparent deficiencies for indepth examination during the onsite review, or to analyze offsite, as necessary.

2-30 Purpose and principles of AAP's. Desk audits should be conducted with reference to the following purposes and principles of AAPs.

2-30.1 Equal employment opportunity requires that a contractor eliminate all intentional and unintentional discrimination. A contractor's personnel policies must not (if implemented as stated or otherwise) have an adverse impact on or result in disparate treatment of, any persons because of their race, color, religion, national origin, sex, handicap or covered veteran status. Moreoever, the contractor's actual practices must be nondiscriminatory.

2-30.2 Affirmative action includes those steps necessary to ensure equal employment opportunity.

2-30.3 A contractor's AAP specifies its procedures for implementing affirmative action. It is a system of interdependent and continuing actions that include:

2-30.3a Adopting an EEO policy. A contractor must commit itself in writing to a policy of equal employment opportunity in all personnel actions. This policy statement must be signed, dated, and reaffirmed annually. This statement must be distributed to employees and recruitment sources. Distribution must be documented.

2-30.3b Appointing an EEO Officer. A contractor's designation of its EEO officer is a first step in transforming equal employment opportunity from policy to reality. This official is central to the success of the system. He or she is responsible for ensuring that the contractor takes the subsequent steps required to effect this transformation. An AAP that does not provide the EEO officer with enough authority to ensure that the program is implemented is unacceptable.

2-30.3c Self-analysis. A contractor must analyze its work force to identify areas in which its stated policy of equal employment opportunity may not be a present reality. These areas of deficiencies may include policies and procedures that are discriminatory (either by intent or effect) or which fail to meet affirmative action requirements. They may include the effects of past discrimination, such as failure to take affirmative action which thus results in underutilization or the presence of affected classes. Affirmative action includes analysis by a contractor/bidder of its work force and the construction of various affirmative action commitments regardless of the existence or findings of prior discrimination.

2-30.3d Corrective action. A contractor must develop corrective action sufficient to eliminate any identified deficiencies in the Executive Order, and Sections 503 and 402 programs. Deficient policies and procedures must be eliminated or altered. Underutilization requires goals and timetables (supported by planned actions to ensure their attainment). Affected classes require relief that makes class members "whole," including, where appropriate, back pay and retroactive seniority. All corrective actions must be detailed in the contractor's AAP.

2-30.3e Self audit. A contractor's objectives and procedures must be supported by an effective system of self-audit. This system must be detailed in its AAP. The audit system must enable it to ensure that AAP procedures are being implemented and to evaluate the effectiveness of those procedures.

2-30.3f Further corrective action. Where a contractor's self-audit reveals that its AAP procedures (although implemented in good faith) are not sufficient to attain objectives, they must be supplemented or replaced by more effective action programs. The contractor's EEO officer must ensure that this process of audit and revision continues until all deficiencies have been eliminated.

2-30.4 Attainment of goals is not the sole measure of a contractor's compliance. However, because goals reflect the probable results of equal employment opportunity, failure to attain at least 95% of a goal requires that the cause of the failure be determined. If the contractor failed to meet at least 95% of a goal despite a full good-faith effort to attain the goal, the EOS should find the contractor in compliance with the Executive Order in the absence of other actionable violations.

2-40 Applicability. The EOS should normally follow these procedures in performing desk audits.

2-50 Overview of the desk audit. The desk audit is a procedure for identifying potential compliance questions. The compliance review should focus on resolving such questions (if any). While none of the desk audit activities are a procedural prerequisite to an onsite compliance review or to an enforcement action, the EOS should normally perform the desk audit as follows:

2-50.1 Complete pre-desk audit procedures.

2-50.2 Determine whether contractor has furnished all requested data.

2-50.3 Determine whether material submitted represents a reasonable effort to meet the requirements of 41 CFR Part 60-2.

2-50.4 Audit contractor's attainment of goals and commitments under previous AAP (e.g., has it attained at least 95% of each goal) and make determination regarding contractor's good faith effort.

2-50.5 Audit contractor's compliance with affirmative action requirements for handicapped individuals and covered veterans.

2-50.6 Review contractor's work force data:

2-50.6a Review composition of work force.

2-50.6b Identify lines of progression, "job families" or other promotion sequences, to the degree permitted by the contractor's data submission. Compare actual organizational units with "departments" designated in contractor work force analysis.

2-50.6c Audit work force analysis; identify focus job areas.

2-50.6d Audit job groups established by the contractor.

2-50.6e Audit availability estimates.

2-50.6f Audit utilization analysis and identification of deficiencies.

2-50.6g Audit goals, and other objectives and commitments.

2-50.7 Audit contractor's attainment of goals and commitments to date under present AAP and make an initial determination regarding contractor's probable good faith effort.

2-50.8 Identify for further review, if possible, any apparent adverse impact and/or disparate treatment caused by the use of employee selection procedures, to the degree permitted by the contractor's date submission.

2-50.9 Audit narrative AAP provisions.

2-50.10 Summarize the results of the desk audit. Identify any remaining compliance questions.

2-50.11 Determine whether an onsite review is required.

2-50.12 Complete post-desk audit actions.

2-50.13 Perform the following actions (throughout the desk audit process):

2-50.13a Complete SCRR (Parts A & B)

2-50.13b Complete case chronology

2-60 Pre-desk audit actions. In preparing for a desk audit, the EOS should normally:

2-60.1 Send copies of the Standard Inquiry Form (figure 2-1) to the district office of the EEOC and to state and local fair employment agencies. Prior to sending this form, the EOS should ascertain that there are no court orders barring such exchanges of information about the contractor.

2-60.1a (Reserved)

2-60.1b Refer to the Community Resource File for a list of state and local fair employment agencies. These agencies are also listed in the Civil Rights Directory published by the U.S. Commission on Civil Rights.

2-60.1c Refer to Appendix 2-G for a list of Tribal Employment Rights Office (TEROs). Contact the appropriate TERO prior to conduct of a compliance review of a contractor operating near an Indian reservation. See, also section 2-10.2.

2-60.1d Send the Standard Inquiry forms normally well before the OFCCP Letter Requesting the AAP and Support Data to permit receipt of replies in time for use during the desk audit.

2-60.2 Send the OFCCP Letter Requesting the AAP and Support Data (figure 2-2) to the contractor by certified mail with return receipt requested. The EOS should obtain specified contractor identification information by telephone or during onsite review. The 60-day period for completing the compliance review begins when the AAP and support data are received. While completion of the review within the 60-day period is not a procedural prerequisite to an enforcement action, substantial effort should be made to complete the review within that period of time. The EOS should consider this in determining when to send the Notification.

2-60.3 Telephone the contractor (normally no later than 15 days after the AAP Request Letter was sent) to ensure that the contractor fully understands its requirements.

2-60.4 Review information contained in the relevant Community Resource File. The EOS should normally review the following information:

2-60.4a Availability of minorities and women in the relevant labor market area.

2-60.4b Basic economic structure of the relevant labor market area (for example, key industries, the extent to which the establishment competes with other firms for employees, unemployment rates).

2-60.4c Recruitment and training sources, including minorities and women's organizations, handicapped and veterans organizations, state and local government employment agencies, rehabilitation agencies, or special job development programs and technical trade schools.

2-60.4d Potential sources of information about the contractor's EEO posture, including state and local human rights/relations agencies, and private organizations such as the National Conference of Christians and Jews, Urban League, NAACP, Anti-Defamation League of B'nai B'rith, Jewish Community Relations Council, Project Equality, American Coalition of Citizens with Disabilities, National Federation of the Blind, American Council of the Blind, and the Tribal Employment Rights Office.

2-60.4e Prevailing employment practices and other relevant community characteristics (where available, refer to reports about the area published by the U.S. Commission on Civil Rights, its State advisory committees, and other sources).

2-60.5 Review case files for the establishment, if available. (Where an establishment has not been reviewed before, examining case files for a contractor's other establishments can help the EOS identify potential problem areas.) Review or identify:

2-60.5a The establishment's compliance history (What is its trend in the utilization of minorities and women? Has it complied with its commitments and met its goals in the past? Are the same problems identified in each compliance review? Has it made progress in reviewing its job qualification requirements?)

2-60.5b Any significant commitments in the AAP, a conciliation agreement or other document, or particularly noteworthy affirmative action.

2-60.5c Any potential deficiencies not resolved (or noted) during previous compliance reviews. For example, due to the rapid evolution of affected class identification techniques, affected classes not apparent during past compliance reviews may now be found.

2-60.5d Any information that can be used to resolve current compliance questions. For example, information about a contractor's past employment practices contained in previous compliance review reports often helps to determine whether or not an affected class exists.

2-60.6 Obtain a general understanding of the industry involved. Industry information can be obtained from compliance review reports, court decisions, and articles in general and trade publications. Information that can be used in the review includes:

2-60.6a Personnel practices in the industry found to have resulted in affected classes of applicants or employees.

2-60.6b Patterns in the employment of minorities, women, covered veterans and handicapped individuals, including common areas of concentration and relative underrepresentation.

2-60.6c EEO progress, relative to other industries.

2-60.6d Commonly identified deficiencies and remedies obtained.

2-60.6e Employment prospects.

2-70 Procedure on contractor's AAP submission for desk audit.

2-70.1 If an AAP is not received within 30 days after the contractor received notification of compliance review, the EOS should telephone to ask whether the AAP has been mailed. If there is reason to believe that it is enroute, a reasonable period of time will be allowed for its receipt.

2-70.2 If there is no reason to believe that an AAP is enroute, or if an AAP reported enroute has not been received at the end of 5 calendar days following the 30th day, one of the following two actions should be taken:

2-70.2a Issue a show cause notice; or

2-70.2b Process the matter for enforcement (without issuing a show cause notice). Refer to 41 CFR 60-1.26 (a)(2). This regulation gives to the Director, OFCCP discretionary latitude, when deemed appropriate, to go directly to administrative enforcement proceedings, under the above circumstances.

2-80 Audit of Contractor's Data for Completeness. Determine whether contractor has furnished all materials requested in AAP request letter and enclosure. The EOS should contact the contractor and ask him/her to supply any missing items, unless the AAP fails to demonstrate a reasonable effort to meet Revised Order No. 4 requirements and is thus a seriously deficient AAP. If the AAP is seriously deficient, the desk audit need not be carried out. Refer to section 8-30.5.

2-80.1 Audit of submitted materials for reasonable effort. The EOS should normally conduct this audit immediately upon receipt of an AAP.

2-80.2 Evidence of reasonable effort is not the same as "acceptability." Material submitted evidences reasonable effort if it is a sufficient basis for a desk audit.

2-80.3 A contractor's submission evidences reasonable effort if it contains:

2-80.3a A work force analysis and utilization analysis which represents a reasonable effort to meet the requirements of 41 CFR 60-2.11(a) and (b).

2-80.3b The required contents of Section 402/503 AAPs (see 41 CFR 60-250.5 and b, and 60-741.5 and b).

2-80.3c Goals and timetables, if required, and implementing AAP procedures.

2-80.3d A report of the results of the previous AAP and of the current AAP to date.

2-80.4 Where a submission fails to evidence a reasonable effort, the AAP is seriously deficient and a show-cause notice should normally be issued. Refer to section 8-40.

2-80.5 Where a submission evidences reasonable effort, the EOS should audit the AAP to determine if it is acceptable. If deficiencies are found, the EOS should complete the compliance review (including an onsite review, if necessary) and identify any other deficiencies. Where administrative enforcement is contemplated, a show-cause notice should normally be issued if, at the conclusion of the 60 day compliance review period, the contractor has not voluntarily resolved all deficiencies as required by 41 CFR Parts 60-2, 60-250 and 60-741. See, also 60-1.20(b). (Refer to 41 CFR 60-1.26(a)(2) and 60-4.8 for instances in which a show cause notice is not required.) The Director OFCCP may extend the 60 day period for good cause shown.

2-90 Audit of good faith efforts to meet goals and other contractor commitments in previous AAP(s). Revised Order No. 4 states (41 CFR 60-2.14) that:

> Each contractor's compliance posture shall be reviewed and determined by . . . its good faith efforts to make its program work toward the realization of the program's goals within the timetables set for completion.
>
> In addition, 41 CFR 60-250.5 and 60-741.5 require certain contractors to prepare and maintain an AAP for the implementation of Sections 402/503.

Therefore, for every contractor who has had Executive Order 11246, as amended, and Sections 402/503, obligations prior to the start of its current AAP, the compliance review should include a determination as to the adequacy of contractor's good faith efforts to meet goals and other commitments in previous AAP(s). Refer to SCRR Appendix 2-A, instructions for completing pages 6, 8 and 9 of the SCRR.

2-90.1 Period to be evaluated. The EOS should evaluate the contractor's goal attainment and compliance with other commitments in AAP(s), conciliation agreements, letters of commitment, and similar documents from the time of the most recent compliance review to the start of the current AAP. Refer to Section 2-200.

2-90.1a In instances where there have been no previous compliance reviews, although the contractor has been subject to the provisions of the Executive Order and Sections 402/503, the relevant period to be evaluated will begin at least with the time the contractor first became subject to 41 CFR 60-1.40, 60-741.5 and/or 60-250.5. However, it will often be necessary to examine past practices and procedures in order to understand their results in the contractor's work force.

2-90.1b The EOS should normally evaluate at least one full AAP year plus the portion of the current year necessary to bring the review up to date. For example, suppose the AAP covers calendar years January 1, 1978 through December 31, 1978 and January 1, 1979 through December 31, 1979, and the last review was in April, 1978. For a review performed in July, 1979 the period to be reviewed would be at least January 1, 1978 through July, 1979.

2-90.2 Identification of potential deficiencies. Each failure to meet at least 95% of an annual placement rate goal or apparent non-fulfillment of a commitment approved by OFCCP or a predecessor compliance agency is a compliance question involving a potential deficiency that must be resolved during the review process. The EOS should be especially alert for any indications of failure to comply with commitments made in a conciliation agreement. Refer to sections 8-130 and 8-160.

2-90.3 Subsequent desk audit actions where failure to attain at least 95% of each goal or apparent non-fulfillment of commitments has been identified. The EOS should:

2-90.3a Review contractor's explanation for non-attainment, or apparent non-fulfillment. Summarize available information on the contractor's good faith efforts on the appropriate pages of the SCRR, and, in all cases where a determination cannot be made that the contractor has acted in good faith, identify further information needed to reach a determination. Refer to section 2-200 and chapter 3 for guidance on kinds of information (and likely sources) to be pursued.

2-90.3b Except as noted in section 2-80, relating to a seriously deficient AAP, a determination of lack of good faith effort should not normally be based solely on the results of a desk audit. Where there is insufficient evidence at the desk audit stage to determine whether the contractor has acted in good faith, an onsite review should normally be performed.

2-90.3c Apprise the contractor of questions relating to good faith efforts and the kinds of information, including contractor records, to be examined, and contractor personnel to be interviewed during the onsite review. The contractor should be afforded every reasonable opportunity to present evidence to support its contention of good-faith efforts.

2-100 Audit of contractor's compliance with affirmative action requirements related to handicapped individuals and disabled and Vietnam era veterans.

2-100.1 In evaluating the contents of the AAP for covered veterans and handicapped individuals, the EOS should:

2-100.1a Determine whether AAP evidences reasonable effort.

2-100.1b Identify potential deficiencies.

2-100.1c Audit compliance with requirements prohibiting discrimination on grounds of handicap and veteran status.

2-100.1d Determine whether employee benefits are afforded on a non-discriminatory basis.

2-100.1e Determine the adequacy of the contractor's method of listing jobs with State Employment Security agencies.

2-100.1f Review contractor's compliance with Mandatory Job Listing requirements, as required by Section 402.

2-100.1g Review the contractor's policy; special recruitment efforts; reasonable accommodation to covered employees; personnel practices; hiring and assigning employees for jobs without regard to handicap and veteran status.

2-100.1h Review, for possible negative impact in employment, private employment agencies, State Employment Security agencies not properly referring covered veterans.

2-100.1i Determine whether an on-site review is required.

2-100.1j Summarize compliance judgments which can be based on the desk audit and define compliance questions to be resolved during an onsite review.

2-100.2 Affirmative action includes those steps necessary to ensure equal employment opportunity. A contractor's AAP specifies its procedures for implementing action. It is a system of interdependent and continuing actions that include:

2-100.2a Policy statement. This part of the AAP should indicate whether or not the contractor has incorporated into the policy statement a posture that reflects the concerns of Section 503, as amended, and Section 402. The chief executive should issue a firm statement of personal commitment, legal obligations and the importance of affirmative action as a business goal. The chief executive should apprise each executive, manager and supervisor of this affirmative action responsibility.

2-100.2b Policy dissemination: Internal and External.

2-100.2b1 The intention of internal policy dissemination is that managers and supervisors should be fully informed of the commitment to take affirmative action with respect to handicapped individuals and covered veterans. All employees should be informed of the company policy. Union officials should be invited to assist with affirmative action, and to include appropriate statements of commitment to affirmative action in collective bargaining agreements.

2-100.2b2 The intention of external policy dissemination is that the contractor make appropriate contacts with the media and public and private employment recruitment sources. The contractor should notify all subcontractors, vendors and suppliers in writing of its AAP and request appropriate supportive action on their part.

2-100.2c Implementation responsibility. The contractor should appoint a top management official as Director or Manager of its Affirmative Action Program, who is responsible for its implementation. The person appointed, who will have ready access to the company's chief executive, should be sensitive to varied ways in which employment discrimination limits job opportunities and limits commitment to program objectives with respect to handicapped persons and covered veterans.

2-100.2d Internal auditing and reporting system. The company should establish a system to monitor and evaluate the progress of each aspect of programs implemented pursuant to Sections 503 and 402 regulations. Reporting, auditing, and evaluating affirmative action should be given the same priority as other business objectives, and necessary corrective action should be taken where needed.

2-100.2e Self-analysis. This section requires a written explanation describing deficiencies uncovered from the auditing and reporting system. This explanation should contain a discussion of the development of the contractor's action-oriented program(s), any affirmative action taken by the contractor, and the objectives established by the contractor to offset existing deficiencies.

2-100.3 Development and implementation of Affirmative Action activities:

2-100.3a Development of job-related mental and physical job qualification requirements.

2-100.3b Schedule for review of job qualification requirements.

2-100.3c Personnel processes that assure proper consideration of qualifications of employees and applicants for recruitment, hiring, training, promotion and benefits.

2-100.3d Accessibility for handicapped individuals to the employment process.

2-100.3e Accommodation to specific jobs; to place of employment.

2-100.3f Outreach programs.

2-100.3g Mandatory Job Listing (MJL) and quarterly reporting requirements.

2-100.3h Internal review procedures for grievances, disciplinary actions and terminations.

2-100.3i Method of issuing invitation to self-identify (and contents of the invitation) covered veterans and handicapped individuals.

2-110 Overview of audit of work force data, work force analysis, availability analysis, utilization analysis, and goals; Initial review of contractor's work force and utilization trends. If the EOS is not already familiar with it, this overview should aid in understanding the structure and composition of a contractor's work force, and should enable him/her to evaluate the appropriateness of job groups or the accuracy of underutilization analyses. Audit of contractors' work force analyses, utilization analyses, availability analyses, and goals should therefore be approached as a single process.

2-110.1 For an initial review of contractor's work force and utilization trends, the EOS should review submitted EEO-1 reports (and earlier reports, if available). Refer to SCRR pages 3 and 4. If necessary EEO-1 reports are not present in the case file, and are not submitted by the contractor, the EOS may be able to obtain them from the EEOC.

2-110.2 What are the trends in the work force totals, and in the totals for each EEO-1 category? Have the totals remained the same during the last 4 years? Have they increased or decreased?

2-110.3 What are the utilization trends in each EEO-1 category? Are there any indications of improvement or decline in specific EEO-1 categories?

2-110.4 Are minorities or women concentrated in specific EEO-1 categories? Have these concentrations increased, decreased, or remained the same?

2-110.5 Are there any indications that apparent improvements are the result of reclassifying jobs with concentrations of minorities or women from one EEO-1 category to another? For example, if the total number of "craft" positions increases from one year to the next in proportion to an increase in women craft personnel, and the total numbers of "operative" positions and women operatives show a corresponding decrease, the "increase" may have resulted from changing the EEO-1 category of the women's jobs, rather than from genuine promotions.

2-120 Identification of seniority units and promotion sequences. Knowledge of seniority units and promotions sequences is necessary to audit a work force analysis and to define job areas used in the JAAR analysis. They must therefore be identified before auditing the work force analysis. Collective bargaining agreements, organization and progression line charts, and similar documents should be used. The EOS should be alert for:

2-120.1 Seniority units that cross departmental lines. Department-wide statistics may give the impression that there are several women or minorities in the "bidding pool" for higher paying positions, while their jobs are actually in a different seniority unit.

2-120.2 Job titles that appear in two or more seniority units with substantially different opportunities. The same job title (for example, janitor or laborer) may be an "entry-level" position in a well-paying seniority unit, and a "dead-end" position in a building maintenance unit.

2-120.3 Job titles not uniformly covered by collective bargaining agreements. Although job titles are identical, those not covered by collective bargaining agreements (for example, secretaries who work for top management) may afford superior advancement opportunities.

2-120.4 "Progression sequences" that include both union and nonunion positions. This often occurs in clerical departments. Supervisors and higher paying positions in such departments may be held exclusively by men, while lower paying positions are held by women. Analysis may reveal that jobs held by women are in a collective bargaining unit, while those held by men are not. Thus the contractor may place men directly

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into higher paying jobs; men who have not served in the less remunerative positions held by women. In addition, occasionally, more than one union local may represent jobs in the same line of progression; or different unions may represent various groups of jobs. An understanding of how employees obtain their jobs, the kind of seniority used, ability to transfer from one union to another, etc., is often necessary in order to understand how the contractor's employment system works.

2-130 Audit of work force analysis. The EOS should normally:

2-130.1 Assess the acceptability of organizational units (which, in some cases, may be called "departments") as depicted in the contractor's work force analysis. The criteria in section 2-120 should be used in performing this assessment. These organizational units must include the lowest level of supervision in the contractor's operations.

2-130.2 Carefully examine patterns of minority and female employment: where they are or are not employed in departments, progression lines, job titles, and other relevant job areas. Note apparent discrepancies. For example, men may supervise work units which are composed predominantly of women; the same job title may be composed predominantly of minorities in one department, and predominantly of non-minorities in another department. Such discrepancies should be targeted for further examination, since they may indicate discriminatory placement or promotional practices or other Executive Order violations.

2-130.3 Identify job areas exhibiting concentration or under-representation. These are focus job areas.

2-130.3a Concentration is defined as having substantially more minorities or women in a particular job area than might reasonably be expected by their overall representation in the contractor's work force, or relevant section of that work force. Refer to manual Foreword for usage of term "reasonable."

2-130.3b Under-representation is defined as having substantially fewer minorities or women in a job area than might reasonably be expected by their representation in the contractor's work force, or relevant section of that work force; or by their availability for the jobs involved. Note: "Underrepresentation" is not the same as "underutilization," which is any numeric difference between availability and utilization. A substantial disparity is required for underrepresentation.

2-130.3c The terms "substantially more" or "substantially fewer" in the definitions of concentration and under-representation cannot be so precisely defined as to fit all cases.

A broad rule-of-thumb, not necessarily applicable in all cases, which has found some acceptance is a variant of the "4/5" or "80/20 rule" which is used to identify indications of adverse impact in personnel activities. Refer to section 2-240. In the context of work force incumbency, a deviation of 20% or more in representation rates of a particular job area as compared to the relevant base of comparison could be viewed as concentrations (if 20% or more higher) or under-representation (if 20% or more lower).

2-130.3d A formula, the JAAR (Job Area Acceptance Range), may be used to compute the acceptable range of representation rate variation in a job area.

2-130.3d1 JAAR = A ± (A x 0.2) where A is the percentage of minorities or women employed in the relevant base of comparison, i.e., the relevant section of the work force (or entire work force, if appropriate). For example, where A = 25%, the JAAR = 25 ± (25 x 0.2) = 25 ± (5) = 30%--20%.

2-130.3d2 If the percentage of minorities or women employed in a job area is above the range (30% in the above example) the job area is clearly an area of concentration.

2-130.3d3 If the percentage of minorities or women employed in a job area is below the range (20% in the example) the job area is clearly one of relative under-representation.

2-130.3d4 The JAAR may be useful, in certain cases, in confirming the EOS' impression of concentration and/or under-representation. However, the EOS should be aware that the JAAR formula may also serve to mask or conceal problems, e.g., when women compose 75% of all incumbents in the work force due to their predominance in the less desirable jobs which account for the majority of all incumbents, it will be very difficult to find areas of concentration, since the JAAR would be 90%-60%. Yet very serious problems, including an affected class, may well be present.

2-130.3d5 Therefore, the use of the JAAR is optional, at the discretion of the EOS. Furthermore, the EOS should recognize that deviations of less than 20% in job area representation, as compared to relevant base of comparison, may in some cases, validly be considered as concentrations/under-representation. The precise degree of difference that is sufficient to justify findings of concentration/under-representation will be determined by such factors as number of incumbents in the job area, number of incumbents in the relevant base of comparison, nature of the jobs involved, etc.

2-130.4 In determining the relevant section of the contractor's work force with which minority or female utilization in a particular job area is to be compared (or the relevancy of using the entire work force as the base of comparison), the EOS should analyze the work force both vertically and horizontally, recognizing that no one method of analysis can be applicable to all cases, or often even to all job areas in one work force. The following examples may be used as guidance:

2-130.4a Where jobs within a department (above entry-level) are usually filled by promotion from within--or might reasonably be filled in such a manner based on the nature of the jobs involved and the training which the contractor could reasonably be expected to offer (e.g., on-the-job training)--comparison between representation in a particular job area within that department and representation in that department's total work force, is appropriate. This kind of analysis will be helpful in spotting instances of concentration in lower-level jobs and may indicate discriminatory promotional (or placement) patterns.

2-130.4b Where there are departments or organizational units with largely similar qualifications for entry-level positions (e.g., unskilled or lightly skilled in blue-collar departments), representation in a particular department's total work force may be compared to representation in the total work force of all such departments. This kind of analysis will be helpful in spotting concentrations of minorities or women in less desirable (lower-paying, less opportunity for advancement, poorer working conditions, etc.) departments, and may indicate discriminatory placement patterns.

2-130.4c The guidance in sections 2-130.4a and 2-103.4b can be applied to both white-collar and blue-collar situations.

2-130.4d In some cases, particularly in the white-collar section, the total sector (i.e., all white-collar incumbents) may be the relevant base of comparison. Such cases will generally be characterized by a number of jobs similar in function, content, skills, experiential prerequisites, etc. which will be found in various "departments" or organizational units. In such work forces, it will be appropriate to compare representation in a particular job area (e.g., secretaries/clericals) with representation in the total sector. Concentrations in such job areas may indicate discriminatory placement, promotional, and/or access to training practices.

2-130.4e In all cases, the EOS should be careful that the section of the contractor's work force which is used as a base of comparison to the particular job area is, in fact, relevant. For example, the kind of comparison cited in 2-130.4d is not appropriate if a large proportion of the jobs in the white-collar section actually require specialized education, beyond the contractor's control, e.g., comparison between representation among clericals and degreed engineers is not realistic. On the other hand, EOS's should be alert to the fact that some companies can, and do, sponsor or otherwise encourage through some form of educational assistance programs, employee participation in degree (e.g., MBA) programs.

2-140 Affected class analysis. The EOS should understand that a finding of concentration is not necessarily a finding of an affected class: it is a first indicator of a possible affected class. Therefore, after finding a concentration based on the kinds of analyses discussed in 2-130.4, the EOS should normally conduct an affected class analysis per the instructions in chapter 7 of this manual. Refer to Appendix 2-A, SCRR.

2-150 Audit of job groups established by the contractor. Meaningful corrective action requires accurate identification of the contractor's problem areas. As problem areas are identified by job groups, the job groups themselves must be defined by a contractor in a way that highlights, rather than obscures, instances of concentration, under-representation, and underutilization. Job groups should not combine traditionally black or other minority jobs, with traditionally white jobs, nor should they combine traditionally female jobs with traditionally male jobs.

2-150.1 Job titles included in job groups should meet the following standards, as established in 41 CFR 60-2.11(b):

2-150.1a Similar work content. For example, "mail truck driver" or "messenger" job titles are commonly but incorrectly grouped with typing and stenographic jobs. The resulting job group would probably exhibit no underutilization of women, despite their possible exclusion from the traditionally male "messenger" and "mail truck driver" positions.

2-150.1b Similar rates of pay. "Similarity" in rates of pay will often be related to the size and kind of work force under review. For example, large work forces may permit establishment of a large number of job groups containing smaller differences in pay levels between jobs contained therein, whereas in small facilities it may be necessary to group jobs into fewer groups with greater differences in pay.

2-150.1c Similar opportunities. "Dead-end" jobs (i.e., jobs which offer little or no opportunity to advance) should not be included with jobs from which advancement may occur.

2-150.2 Job groups should have enough incumbents to permit meaningful utilization analysis. Job groups having too few incumbents for meaningful analysis should be combined with other job groups most similar in terms of work content, pay and advancement opportunities. Optimally, job groups should have at least 50 incumbents. With large employers (1000 or more employees in the establishment under review), job groups should ordinarily be considerably larger than 50 incumbents. Where, because of a meaningful divergence in skill requirements or other factors job groups of at least 50 incumbents are not possible, such groups shall be separately reported in the AAP, with separate utilization and availability analyses, but may be considered together (aggregated numerically) for goal setting purposes. Such aggregation for goal setting purposes, however, should not normally cross EEO category lines, and should normally be confined to groups in which underutilization is of less than one person. Where appropriate, goals arrived at in this manner may be focused on the elimination of underutilization in one or more of the original groups with the most severe deficiencies. For example, where job groups x, y, z, ...have been considered together for goal setting purposes, the goal established may then be focused on the elimination of underutilization in group y for the current AAP year.

2-150.3 Techniques for auditing acceptability of job groups. The following method of auditing job groups may be appropriate depending upon the size of the establishment and the industry.

2-150.3a Divide the establishment's job titles into seven basic categories: 1) craft, 2) operative, 3) laborer, service worker, and other blue-collar positions, 4) Office and Clerical, 5) Supervisory (management), 6) Professional and 7) Sales. It is normally appropriate, particularly where there are more than 100 employees in any of these categories, to divide them into subgroups, generally developed along the lines of common skill requirements, entry points, wage rates and promotion routes. Or, if the industry is one in which there were traditionally white and/or black jobs, or traditionally male and female jobs, the Production and Maintenance positions should be divided for analysis in that fashion. In the trucking industry, for example, over-the-road (line haul) drivers (a job held traditionally by whites) should be separated from city driver and dock worker (a job held by minorities and whites).

2-150.3b Separate production jobs that are in lines of progression from those that are not. It will usually be appropriate to combine all jobs that are not part of the lines of progression as described below for office and clerical positions. However in some instances, (based, for example, upon factors in section 2-150.1), it may be appropriate to group nonprogression line jobs with those in lines of progression. Where transfer or hire into above-entry jobs is rare, each line of progression will normally be considered separately. Separate lines of progression into appropriate levels (for example, entry, intermediate, and senior level job groups).

2-150.3c Look at all office and clerical job titles in the facility as a whole. Organize those job titles into job groups according to their work content, wage levels and opportunity for advancement.

2-150.3d Look at all supervisory and management job titles according to their salaries and responsibilities (for example, first mid- and top-level management: The establishment and complexity will determine the number of levels). Organize management job groups to reflect qualifications required. For example, supervisory positions in highly technical work units requiring knowledge of the work supervised can be grouped by discipline.

2-150.3e Divide professional and skilled technical positions according to discipline (for example, lawyers, accountants, chemists, engineers). Further subdivide disciplines, in accordance with significant differences in salary, responsibility, qualifications required, or other relevant factors. For example, where numerous accountants are employed and are paid according to their experience and responsibilities, divide these positions into three job groups; entry, mid-, and senior-levels; where numerous degreed and non-degreed engineers are employed, they should be placed in separate job groups. Conversely, in many facilities, the number of persons in the respective professions may be so few that one job group of "professionals" may be formed.

2-150.3f Divide sales positions into groups according to their commission earnings, salaries, and advancement opportunities.

2-160 Audit of availability analysis. Each desk audit should include an in-depth audit of availability estimates, and the analyses on which they are based.

2-160.1 General principles for audits of the acceptability of availability estimates.

2-160.1a 41 CFR 60-2.11(b) defines "underutilization" as "having fewer minorities and females in a particular job group than would reasonably be expected by their availability." As interpreted by the Director, OFCCP, any numerical disparity constitutes underutilization.

2-160.1b The factors to be considered in determining the availability of minorities and of women for job groups are detailed in 41 CFR 60-2.11(b)(1) and (2).

2-160.1c 41 CFR 60-2 requires contractors to consider all eight factors listed in 41 CFR 60-2.11(b)(1) and (2) in determining the availability of minorities or women for each job group. In determining how each of the eight factors is to be considered, it is important to bear in mind the purpose of an AAP which is not only to eliminate discriminatory practices, but to promote equal employment opportunity. In this respect, it is evident that even with the cessation or absence of discriminatory practices, if underutilization is present, work force turnover rates often will prevent the immediate employment of minorities and women at the level of their current availability.

The task for the contractor, then--and for the EOS--is to estimate what the availability of minorities and women will be by the date of the ultimate goal. The estimate should take into account potential increases in the number of skilled minorities and women, including consideration of what can be done through promotion and training of present and future minority and female employees.

2-160.1d Certain other facts also must be considered. For example, 2-160.1d1 Because of past discrimination, for most job groups, the number of minorities and women who at this time possess the requisite skills for these jobs may not equal the percentage of minorities and women in the population or labor force from which the jobs are filled;

2-160.1d2 As a general matter, more and more minorities and women are learning the skills necessary to perform skilled jobs. Therefore, old availability data (e.g., 1970 Census data being used during 1979) may underestimate current availability and may further underestimate availability as of the date of the ultimate goal. In addition, Census availability figures may merely be indices of discrimination. For example, blacks or women may have been traditionally excluded from certain kinds of jobs even though they currently possess the ability to perform them. Thus, Census data on the number of blacks or women in those jobs may merely mirror past exclusion.

2-160.1e Thus, among the eight factors, those pertaining to the availability of persons with requisite skills (60-2.11(b)(1)(iv) and (v), and (b)(2)(iii) and (iv)) must be considered the very "floor" of availability, above which the contractor's analysis must build by application of the other factors.

2-160.1f In assessing the relative importance of the size of the minority population and the minority and female percentages of the work force, it is necessary to consider what the position of women and minorities might be--i.e., what the work force would be--had historical discrimination not occurred. In this regard, it is reasonable to assume that, absent historical discrimination, the proportion of women and minorities to be found in any job group might roughly approximate their percentage of the labor force from which the jobs are filled, dependent upon their individual desires and ability.

2-160.1g Minority and female availability for job groups for which training is generally obtainable or is provided by the contractor following employment, will, therefore, usually approximate their percentages in the overall labor market area. The EOS should critically examine lower availability estimates for such job groups. Experience in several industries has demonstrated that, where employment opportunities for minorities and women have been limited or nonexistent, their present low numbers in a job (or in training programs) are no basis for predicting the number of minorities and women who will become available through a contractor's good faith efforts.

2-160.1h Job groups for professions which require extensive and expensive periods of education and training before employment will most frequently justify availability estimates that are lower than the percentages of minorities and women in the overall labor force. However, the rapidly increasing access of minorities and women to such training must be considered in determining availability. Refer to section 2-160.7c3a.

2-160.2 Audit of the technical acceptability of availability analysis-General. A contractor's AAP must indicate a consideration of the eight factors in determining whether underutilization is present in any job group. If after considering all eight factors, the contractor determines that one or more are not applicable, the contractor must justify its decision to exclude that factor(s) consistent with the concept of affirmative action. Such articulation must be part of the AAP, so that the EOS can review the contractor's rationale. Each contractor's availability analyses must:

2-160.2a Include separate analyses for each job group, for women, total minorities, and each minority group exceeding 2 percent of the population of the relevant labor market area.

2-160.2b Consider each of the eight availability factors specified in 41 CFR 60-2.11(b). Factors (b)(1)(i), (ii) and (iii) and (b)(2) (i) and (ii) will be the same for all job groups. Use of factor (b) (1) (i) will identify minority groups which comprise more than 2% of the labor area surrounding the facility.

2-160.3 Manpower Information for AAPs (available from local offices of State Employment Security agencies) should be consulted for figures on population, work force, unemployment, and present employment in specific job categories. For guidance on the use of these figures, refer to Section 2-160.6. The contractor must state the specific percentages of minorities and women determined to be available in the relevant labor market area for each job group.

2-160.4 Racial and ethnic designations. The designations "American Indian or Alaskan native," "Asian or Pacific Islander," "Black not of Hispanic origin," "Hispanic," "White, not of Hispanic origin" will be used. Persons will be included in the groups to which they appear to belong, identify with, or are regarded in the community as belonging to. No person will be counted in more than one group.

2-160.4a Contractors and EOSs should exercise discretion to ensure that applications of these designations are consistent with the intent of the Executive Order.

2-160.4b The following additional guidance has been supplied by OMB:

2-160.4b1 The Indian Subcontinent is now included under "Asian or Pacific Islander" and itself includes: India, Pakistan, Bangladesh, Sri Lanka, Nepal, Sikkim, and Bhutan.

2-160.4b2 Not all persons from Central and South American countries will be included in the Hispanic category. Persons from Brazil, Guyana, Surinam, or Trinidad, for example, are classified by race, and are not always Hispanic.

2-160.4b3 Persons of Portugese ancestry will not be included in the Hispanic category, but will be classified by race.

2-160.5 Audit of accuracy of contractor's determination of appropriate labor market area. A contractor's determination of the relevant labor area must not artificially lower the availability of minorities and women. In determining whether the definition of the labor market area is acceptable, the EOS should examine statistics for the SMSA, county, city, or other appropriate areas, bearing in mind that the reasonable recruiting area may vary for different job groups, depending primarily upon the commuting distance warranted by the pay level. Local commuting patterns and availability of forms of transportation must be considered in this regard. In some cases, this may justify consideration of SMSA's and/or other geographical areas to determine the labor market areas.

2-160.5a Particular attention should be given to factor (v) under 60-2.11(b)(1) and factor (iv) under 60-2.11(b)(2). These relate to the availability of persons having requisite skills in an area in which the contractor can reasonably recruit. The area in which the contractor can reasonably recruit will often be different from immediate labor area, depending upon the skills involved in the job group, and thus will often exert a controlling influence on the requisite skills availability data that are appropriate for use in the analysis. For example, it may be a contractor's consistent practice to recruit nationwide for some professional or managerial job groups, but only within the immediate labor area for clerical and unskilled jobs. Ordinarily, in such circumstances, the contractor should use national availability data regarding minorities and women having requisite skills for those professional and managerial job groups. An exception may be appropriate if the availability of minorities or women having the requisite skills for the job group were greater in the immediate labor area than in the broader recruiting area or the majority of the persons hired are drawn from the immediate labor area. In that case, the immediate labor area availability data might most appropriately be used.

2-160.5b The area within which a contractor can reasonably recruit applies in the case of a contractor which does not normally recruit in an area broad enough to encompass the greatest availability of minorities or women but whose pay or other features of the jobs in questions would be likely to attract minority or female applicants from the broader area if such recruitment were done. Such situations sometimes exist in rural or suburban areas within commuting distance of an urban center with a significant minority population. In such circumstances, the contractor may be required to include the minority or female requisite skills data for that urban area in the availability analysis for the job groups concerned.

2-160.6 Audit of accuracy of contractor's availability data.

2-160.6a Refer to the availability data in the Community Resource File. As necessary, consult data sources listed in Appendix 2C. The EOS should use this information to verify the accuracy of the data used by the contractor.

2-160.6b Lack of currency. Availability data which equate to the requisite skills participation rates from the 1970 Census are unacceptable unless the contractor can provide evidence which indicates that current availability equals the 1970 Census figures.

2-160.6c Confusion of terms. It should be remembered that the terms "work force" and "labor force" have importantly different meanings in labor statistics terminology. The "work force" reported in the State Employment Services' manpower packages includes only those persons employed and those registered as seeking employment. It leaves out the discouraged worker, migrant workers and women on welfare, to name three important groups. The "labor force," on the other hand, is based on the population count, and includes all persons between the ages of 16 and 65.

2-160.6d Lack of verifiability. Data sources must be identified and readily available for verification.

2-160.6e Lack of completeness. Percentages are difficult to verify without raw numbers.

2-160.6f Inaccurate availability determinations often result from failure to consult all relevant sources of data, or from their inappropriate use. For example, although useful data are included in the Manpower Information for Affirmative Action Programs available from local offices of State Employment Security Agencies, these data should be used with the following factors in mind.

2-160.6g In reporting the percentages of minorities and women employed in job categories, some State Employment Security agencies give percentages for occupational distribution rather than participation rates. Refer to Appendix 2C 2C-50.1 for an explanation of the differences between these two figures. This often understates the representation of groups (especially women) in job categories. The EOS should, therefore, ensure that the contractor has used percentage for participation rates, not occupational distribution.

2-160.6h Figures for Hispanics reported by State Employment Security agencies are based on census figures for Spanish-speaking Americans. This is only a subgroup of figures, therefore underestimating the availability of Hispanics. The EOS should ensure that the correct data in census publication PC(1)-C, table 119, are used.

2-160.6i The Census treats Hispanics as an ethnic rather than a racial group. As a result, Hispanics are included in the totals for whites in the Manpower Information Affirmative Action Programs. The EOS should subtract the percentage for Hispanics in Census publication PC(1)-C, table 119, from the total figure for whites in the Manpower Information package, recomputing the percentages for the other racial and ethnic groups. Be sure that the figure for Hispanics is substituted for the figure for Spanish-speaking.

2-160.7 Audit of contractor's consideration of availability factors.

2-160.7a The relative importance a contractor assigns to each of the eight availability factors is central to the acceptability of availability estimates.

2-160.7b In determining which availability estimates to audit for acceptability, the EOS should normally:

2-160.7b1 Identify the percentages of minorities and women in the total labor force of the relevant labor market area.

2-160.7b2 Examine job groups for which the contractor's availability estimates are substantially below these figures. Be alert, however, to situations in which minority or female availability for particular job groups exceeds overall labor market availability.

2-160.7b3 To evaluate the acceptability of any questionable availability estimates, determine the importance the contractor has assigned to each of the eight factors and compare this to the general principles set forth in section 2-160.1.

2-160.7c Contractors' definitions of "requisite skills" and the importance they assign to this factor frequently pose problems. The following guidance will be generally applicable:

2-160.7c1 Analysis should be based upon local State Employment Security agencies' Manpower Information for Affirmative Action Programs data which is now available in most localities. The specific figures shown in Tables I, II and III in those releases can be used in the analysis of population, work force, unemployment (and) skill availability. Current occupations of employed persons indicated in Table III should at no time be considered the only basis for utilization, but must be expanded by evaluation of opportunities through training and recruitment. Basing goals on current rates of participation could perpetuate the effects of past exclusion. Thus, the current occupations of employed persons--which are the 4th and 5th factors for minorities and the 3rd and 4th factors for women--do not necessarily outweigh the other factors and cannot be used as the sole indicators of availability. It must also be understood that the data shown as the occupations of employed persons in the State Employment Security agencies' manpower packages is the participation rate of minorities and women existing at the time of the 1970 Census. The data was accumulated before the effects of the affirmative action that has presumably occurred since and may, therefore, be outdated. Ultimate goals which commit the contractor to achieve in 1980 or beyond, the participation rate which already existed in its area in 1970 will generally be unacceptably low.

2-160.7c2 Moreover, the figures in Table III should not be the sole basis for determining requisite skill figures.

2-160.7c2a Where experience or skill required for a job group is obtained through on-the-job training, the requisite skill that one must possess when hired is the ability to be trained. For such job groups, Table III figures only reflect the numbers of minorities and women who have been allowed to use that requisite skill, not those who possess it.

2-160.7c2b The numbers of women or minorities with requisite skills for higher level job groups often have little or no relationship to Table III figures. Managers, for example, often are "developed from within." Moreover, ability to perform the work supervised is a requisite skill for many management positions (for example, supervisory engineers).

2-160.7c2c Table III figures are based on 1970 Census data. The employment of women and most minorities in most job categories has increased since that Census was conducted.

2-160.7c2d The fact that Table III figures are for "experienced" persons emphasizes that "inexperienced" persons with the requisite skills are not included (the exclusion of minorities and women with requisite skills from opportunities to become "experienced" is a major reason for setting goals).

2-160.7c2e Persons included in Table III figures for one job category frequently have the requisite skills for others. For example, a woman with a degree in psychology employed as a secretary will not be included in Table III figures for psychologists but in that for secretaries.

2-160.7c2f Table III figures do not include persons who have the requisite skills but are not in the labor force.

2-160.7c3 Thus, the figures in Table III should in some instances be replaced or supplemented as follows:

2-160.7c3a Where a B.A., B.S. or advanced degree is a legitimate requirement for employment in a job group and has, in fact, consistently been used as requirement by the contractor, add figures for minorities and women who have received degrees in the discipline since the last census. Sources for this information are listed in Appendix 2C; see also Human Resources Planning: A Guide to Data, available from the Equal Employment Advisory Council, 1714 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

2-160.7c3b Where requisite skills for an entry level job group are acquired through on-the-job training by the contractor, the requisite skills figures for minorities and women should not normally be lower than their percentages in the overall labor force of the relevant labor area.

2-160.7c3c Where training in the profession of the employees supervised is a valid requisite skill for a management or supervisory job group, requisite skill figures should reflect the percentage representation of minorities and women in the profession supervised.

2-160.7c3d Where experience in lower level positions is a legitimate requirement for management or other above-entry level job groups, requisite skill figures should reflect the percentage representation of minorities and women in lower-level job groups in the contractor's work force.

2-160.7c4 Requisite skills figures must not be based on unvalidated requirements (such as degree requirements) that have adverse impact on minorities or women.

2-160.7c5 Requisite skills figures must not be based on requirements not uniformly applied. For example, a contractor that has "promoted from within" to fill all or some of its vacancies in a managerial job group should not use the percentages of minorities or women with M.B.A.'s as the "requisite skill" figure. 41 CFR 60-2.24(f)(5) provides that "neither minority nor female employees should be required to possess higher qualifications than those of the lowest qualified incumbent."

2-160.7d For every job group, the length and accessibility of properly required training or education will affect significantly the relative importance of the eight availability factors.

2-160.7e For job groups in which training periods are relatively short or training is furnished by the contractor, the percentages of minorities and women in the population and total labor force of the relevant labor market area are the most important availability factors. The following guidance will be generally applicable:

2-160.7e1 Unskilled or minimally skilled job groups. The availability of minorities and women should approximate their percentages in the total work force of the relevant labor market area. However, the EOS should also be alert to situations in which minority or female availability for these job groups exceeds their overall labor market availability.

2-160.7e2 Blue-collar job groups in lines of progression. This category includes craft and other job groups in blue-collar lines of progression. Employees are hired into entry-level positions and receive on-the-job and other training as they advance. The ability to be trained is, therefore, a principal requirement for such job groups. The percentages of minorities and women in the population and the overall labor force of the relevant labor market area should, therefore, be the primary bases for estimating availability for these job groups (unless the percentage of minorities or women employed in the entry level job group is higher, in which case these figures should be used). Availability estimates should normally be identical for each job group in a line of progression. Annual placement rates for different levels in the line of progression would increase each year with the representation of minorities or women in "feeder jobs."

2-160.7e3 White-collar lines of progression. Due to the requirement of collective bargaining agreements, or to "promotion from within" policies, some office and clerical, sales, technical, professional, and management job groups operate like blue-collar lines of progression. People are hired into entry level positions and progress according to their job performance and ability to be trained. Availability for job groups in such sequences is normally determined in the same way as for blue-collar lines of progression.

2-170 Use of the Dictionary of Occupational Titles to evaluate the acceptability of job groups and availability analyses.

2-170.1 The Dictionary of Occupational Titles provides standard job titles for most positions. It codes job titles based on their duties, requirements, and other factors. Descriptions of job duties and commonly required qualifications are also given.

2-170.2 The Dictionary of Occupational Titles can be used to facilitate development of larger, more meaningful job groups, or to question the grouping of dissimilar job titles.

2-180 Audit of contractor's utilization analysis and identification of deficiencies

2-180.1 An acceptable utilization analysis for minorities and women for each job group must include a comparison between the percentages of minorities or women employed by the contractor and the percentages determined to be available.

2-180.2 The AAP must specifically state that underutilization exists for each job group in which the employment of minorities or women employed is less than the percentage determined to be available.

2-190 Audit of goals and timetables established by the contractor.

2-190.1 General

2-190.1a Annual goals and timetables must be established by the contractor for each job group in which minorities or women, as applicable, are underutilized by one or more individuals. Where the contractor is underutilized by less than one person, ultimate percentage goals will be established. Care should be taken, where this situation exists, that the target year established for correction of the underutilization should reflect a pace of correction (increase as a percentage of opportunities) that would be expected if all of the opportunities occurring between the current year and the target year had occurred in a single 12 month period.

2-190.1b A single goal for minorities is acceptable unless there is a substantial disparity in utilization of a particular minority group, or men or women of a particular minority group. Separate goals and timetables for such minority groups may be required.

2-190.1c Where appropriate, separate goals and timetables may also be required within minority groups by sex.

2-190.2 Required components of goals. For each underutilized job group, where minorities or women (as applicable) are underutilized by one or more individuals, the contractor must establish:

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2-190.2a An ultimate goal, sufficient to completely eliminate the underutilization.

2-190.2b A specific timetable for achieving the ultimate goal in the shortest feasible time period.

2-190.2c Annual rates at which the contractor will make every good faith effort to hire and/or promote members of the underutilized group.

2-190.3 Ultimate goals. Ultimate goals must be stated as a percentage of the total employees in the job group. They must equal the percentages of minorities and women determined to be available for the job group. The EOS should attempt to ensure that the years projected for attaining ultimate goals are the earliest feasible, if every good faith effort is made.

2-190.4 Annual placement rates (annual goals).

2-190.4a Annual goals must be stated as percentage placement rates and, at the beginning of each AAP year, as specific numbers of placements "numerical goals". Numerical goals are derived by applying the annual percentage placement rate for the job group to the total number of projected placements.

2-190.4b The EOS should determine whether proposed annual placement rates are the best results that can be expected from the contractor's good faith effort to make the AAP work.

2-190.4c The annual placement rate must usually be higher than the ultimate goal if the ultimate goal is ever to be achieved.

2-200 Audit of good-faith efforts to meet goals and other contractor commitments.

2-200.1 Period to be evaluated. The EOS should evaluate the establishment's goal attainment for the current AAP year to date, and also past AAP years, if they have not already been reviewed. Refer to sections 2-50.4 and 2-90.1.

2-200.2 Identification of potential deficiencies. Placement performance during the current AAP year at a rate so poor that it is unlikely a goal will be met is a potential deficiency.

2-200.2a Establishments at which Government approved goals are not in effect. Evaluations of goal attainment should normally be based on the goals in effect before the compliance review. However, where an AAP's old goals are so different from those subsequently found acceptable that they indicate insufficient good faith effort to comply with 41 CFR Part 60-2, the contractor will be required to establish revised goals as part of the conciliation agreement, (including make-up goals) and the revised goals should be used to evaluate the contractor's goal attainment henceforth.

2-200.2b Establishments at which AAPs were not in effect prior to the compliance review.

2-200.2b1 Some establishments covered by 41 CFR Part 60-2 fail to develop and implement AAPs until compliance reviews are conducted.

2-200.2b2 Such establishments cannot resolve this deficiency merely by submitting an acceptable AAP for desk audits.

2-200.2b3 If an AAP was not in effect during the current or previous calendar year, the EOS should evaluate the AAP submitted by the contractor. The EOS should either accept the goals in the AAP, negotiate acceptable goals or process the matter for enforcement. Where agreement is reached, relief for past noncompliance should also be obtained. Refer to section 8-200.

2-200.3 Subsequent desk audit actions where failures to attain at least 95% of each goal in the current AAP have been identified. The EOS should:

2-200.3a Review the action items in the AAP. Are those relating to unattained goals clearly inadequate? If so, determine whether the contractor audited the implementation of its AAP and made the necessary corrections.

2-200.3b Plan to determine onsite whether a good faith effort was made to implement the AAP. Where the numbers of placements appear to have been sufficient, the EOS should determine whether the goals were not attained due to failure to retain minorities or women placed in the job groups.

2-200.3c Summarize the available information on the contractor's good faith efforts, and identify further information (to be obtained from the contractor or other sources) necessary to resolve questions of good faith effort.

2-200.3d Identify potential relationships between data received from the EEOC, etc. and unattained goals. Determine whether any findings of probable cause relate to job groups for which less than 95% of the goal was attained.

2-200.3e Arrange to contact officials of community groups and other recruitment sources that the contractor says it used in attempting to meet unattained goals.

2-200.3f Identify recruitment sources the contractor could have used. Refer to the Community Resource File. The contractor should be questioned onsite about any failures to use sources it could have identified with reasonable effort. Interviews with sources used by the contractor will indicate whether meaningful contact with the contractor occurred. Such findings will assist the EOS in determining good faith effort.

2-200.3g Identify officials who make placement decisions and/or termination decisions for job groups where at least 95% of the goal was not attained. They should be questioned onsite about their efforts to meet the goals.

2-200.3h Identify personnel record systems relating to job groups for which at least 95% of the goal was not attained.

2-200.3i Identify feeder areas from which employees could have been promoted or transferred to meet unattained goals. Minorities or women employed in feeder areas may be interviewed during the onsite review.

2-200.3j Identify procedural problems that could have interfered with meeting the goal in question (for example, lines of progression).

2-210 Audit of AAP action items.

2-210.1 The EOS should focus attention on auditing the acceptability of action items relating to unattained goals.

2-210.2 AAP action items must meet two basic standards:

2-210.2a All items required by 41 CFR 60-2.13 must be addressed.

2-210.2b The AAP's action items must be sufficient, if implemented in good faith, to ensure that each of its specific objectives and the overall objective of equal employment opportunity are attained (refer to section 2-30.3).

2-210.3 An AAP must address the requirements of 41 CFR 60-2.13 in an acceptable manner. An acceptable AAP must detail how each item will be implemented.

2-210.3a In the dissemination of its EEO policy statement the contractor should emphasize to its normal sources of applicants that it is an equal opportunity employer, has an AAP and will appreciate the inclusion of members of minority groups and women among the referrals.

2-210.3b The designation of the EEO Officer must involve a statement that he or she is responsible for implementing the program and must specify the EEO Officer's responsibilities and authority.

2-210.3c Identification of problem areas by organizational unit must address the problem areas that have been identified, and the corrective actions to be taken must be clearly specified. This is especially necessary for identification of deficiencies in organizational units, which may exist even though job groups show no underutilization.

2-210.3d Cooperation with minority and women's organizations requires listing the organizations that will be used, and how they will be used. For example, where an establishment has few openings recruitment sources should normally be informed of each vacancy. Only periodic contacts are necessary where vacancies occur on a continuous basis.

2-210.3e Audit and reporting systems should specify the content and frequency of the reports and audits. The AAP should state that corrective action will result from these reports and audits (where necessary). The officials responsible for ensuring this must also be specified. Where an establishment is one of many belonging to a contractor, the AAP must also specify audit and corrective action responsibilities at both the corporate and regional levels where applicable.

2-220 Reviews of corporate headquarters, regional, and district offices. When reviewing corporate headquarters offices, the EOS should require evidence that establishments under the headquarters' control have developed AAPs.

2-230 Identification of adverse impact caused by employee selection procedures; validation and corrective action. Seemingly "neutral" employee selection procedures (including job "qualification" requirements), that are not job-related (and/or, in the case of "qualifications," that can be learned on the job) can prevent minorities and women from attaining their full employment potential. Identification and correction of such procedures (including relief for persons injured by them) are, therefore, primary objectives of each desk audit and compliance review process.

2-230.1 The Uniform Guidelines on Employee Selection Procedures that apply to covered Federal contractors and subcontractors are in 41 CFR Part 60-3.

2-230.2 Each desk audit should include an evaluation of whether the contractor's personnel procedures are having an adverse impact on persons of any race, sex or ethnic group.

2-230.2a **Adverse impact, in the context of a compliance review, is a substantially different rate of selection in hiring, promotion or other employment decisions which works to the disadvantage of members of a race, sex or ethnic group.**

2-230.2a1 **For example, a minority selection rate that is less than 80% (.8) of that for nonminorities, or a female rate that is less than 80% (.8) of that for males, in positive personnel procedures such as hire, promotion, transfer, or training, indicates adverse impact.**

2-230.2a2 In a negative personnel procedure such as termination or demotion, if the rate for the group with the lowest rate divided by the rate for the group in question results in less than 80% (.8), adverse impact is indicated. For example, a nonminority rate that is less than 80% (.8) of that for minorities, or a male rate that is less than 80% (.8) of that for females, indicates adverse impact on minorities or women.

2-230.2b The EOS should use the IRA (Impact Ratio) to identify adverse impact. Refer to the SCRR, IRA worksheet, and section 2A-30.2 instructions for page 12 of SCRR.

2-230.2b1 41 CFR 60-3.15A(2)(a) requires contractors with more than 100 employees to prepare annually "adverse impact determinations" which show the effect of the selection process for each job on any race, sex or ethnic group constituting more than 2 percent of the labor force in the relevant labor market or more than 2 percent of the workforce. These determinations should compare the selection rate for each group to that for the group with the highest selection rate. Refer to 60-3.15. The EOS should review the contractor's determinations of adverse impact.

2-230.2b2 Where the contractor has not itself made adverse impact determinations, but makes available sufficient data from which such determinations may be made (see 60-3.15), the EOS should make adverse impact determinations. The EOS should determine whether the total selection process has an adverse impact on any race, sex, or ethnic group constituting more than 2 percent of the labor force in the relevant labor market or the applicable work force by comparing the selection rate for each group to that for the group with the highest selection rate, using the Impact Ratio. Selection rates should generally be computed separately by sex and race or ethnic group. For example, the selection rate for women is generally compared to the selection rate for men, and the selection rate for members of one race or ethnic group is generally compared to the selection rate for members of another race or ethnic group. In addition, it may sometimes be appropriate to use race, sex or ethnic subgroups for comparison purposes. For example, if white males, are selected at a much higher rate than black males, and black and white females are selected at the same rate as the black males, it may be appropriate to compare all females solely with white males.

2-230.2b3 While the contractor is not explicitly required by 41 CFR Part 60-3 to compare the selection rates for sex components of race or ethnic groups to one another (for example, minority men to nonminority men or Hispanic women to the group with the highest selection rate) the EOS may make such comparisons when appropriate in order to identify evidence of adverse impact which might not be revealed by whole-group comparison. (The EOS should keep in mind however that in such cross-comparisons, the numbers may be so small as to be statistically insignificant.) Such a comparison is also necessary when the cause of a substantive disparity in the contractor's utilization of men or women of a particular minority group is being sought. (41 CFR-2.12(e)).

2-230.2c If the total selection process does not have an adverse impact on any race, sex, or ethnic group, and if disparate treatment does not appear to be present (refer to section 2-235), the EOS should normally not investigate the selection process further. But if the total selection process includes a component which either (1) is a significant factor in continuing a pattern of assignments within the organization which resulted from prior discriminatory practices or (2) has been held to be not job related by a large number of court decisions or administrative rulings in the same or similar circumstances (such as a no-arrest record requirement), the EOS should request the contractor to determine whether that component has an adverse impact. In addition, if the total selection process includes a component which is a major cause of underutilization, the EOS should refer to 41 CFR 60-2.13, *et seq*.

2-230.3 Evaluation of selection procedures. If the total selection process has an adverse impact on a race, sex, or ethnic group, the EOS should determine which components of the selection process, or selection procedures, also have an adverse impact. This involves (1) identifying the selection procedures; (2) determining how the selection procedures are used in making employment decisions; and (3) determining which of the selection procedures results in the adverse impact. Selection rate here means passing a written, oral or demonstration test; meeting a qualifying criterion; or otherwise continuing on in the employment or promotional process rather than being rejected or eliminated from the process.

2-230.4 Identification of selection procedures. Whenever the overall selection process has an adverse impact, the EOS should ask the contractor to identify and describe the selection procedures used to screen and hire applicants. These procedures may be e.g., written tests, formal or informal interviews, review of application forms, physical examinations, or on-the-job tests. The EOS should verify the contractor's descriptions by reviewing records in the employment office or, if possible, by observing the process by which applicants are screened and hired. A similar procedure should be followed with regard to disparate treatment. Refer to section 2-235.

2-230.4a The EOS should require the contractor to describe how each of the selection procedures is used to make employment decisions.

2-230.4a1 For example: where a selection procedure is formal and scored, such as a written test, the EOS should ascertain whether the selection procedure is used just as a pass-fail (screening) device, where everybody who passes is treated the same regardless of score, or whether it is used to rank applicants on the basis of score.

2-230.4a2 If the selection procedure is used to screen out some applicants, the EOS should ascertain what the cutoff score is (the point which divides those who are rejected from those who are not rejected).

2-230.4a3 If the contractor does not provide a cutoff score, or insists that there is no cutoff, the EOS should inspect the personnel records to determine the lowest score of any hired applicant. In the absence of any other information, this may normally be assumed to be the cutoff score.

2-230.4a4 If the selection procedure is used with other selection procedures, the EOS should ascertain whether they are used sequentially (e.g., both must be passed) or combined and, if they are combined, how much weight is given to each. It may be helpful in this regard to develop a flow chart to determine the relationships between selection procedures.

2-230.5 Determination of adverse impact. The EOS should ask the contractor for applicant flow data, which will indicate the effect of each of the selection procedures on the race, sex, and ethnic groups for which the EEO-1 series of reports are required. (The EOS should note that section 15A.(1) of the Guidelines provides simplified recordkeeping requirements for employers with less than 100 employees and for other employers not required to file EEO-1 reports. Therefore, it may be much more difficult to calculate adverse impact for each specific job group at these facilities).

2-230.5a The EOS should evaluate the applicant flow data for each of the selection procedures to determine whether the selection or passing rate for any race, sex, or ethnic group is less than 80 percent of the rate for the group with the highest rate. The EOS should then inform the contractor that those selection procedures have an adverse impact.

2-230.5b The data provided by the contractor may not be sufficient to determine whether any of the selection procedures have adverse impact or result in disparate treatment. In this case, if there is an underutilization in the job group or if despite the absence of underutilization there is any reason to suspect adverse impact or disparite treatment, the EOS should take, for example, one or more of the following actions:

(1) Observe the applicant flow process, interview employees or applicants, and examine personnel records to obtain sufficient data to determine adverse impact;

(2) Ask the contractor for validation evidence for the entire selection process; or

(3) inform the contractor that the failure to keep adequate data has led to the conclusion that there is adverse impact, according to 41 CFR 60-3.4 of the Guidelines.

2-230.6 41 CFR 60-3.3(a) provides that "The use of any selection procedure which has an adverse impact on the hiring, promotion or other employment or membership opportunities of members of any race, sex, or ethnic group will be considered to be discriminatory and inconsistent with these guidelines, unless the procedure has been validated in accordance with these guidelines, or the provisions of section 6 below are satisfied."

2-230.6a Use of alternative selection procedures to eliminate adverse impact. A user may choose to utilize alternative selection procedures in order to eliminate adverse impact or as part of an affirmative action program. Such alternative procedures should eliminate the adverse impact in the total selection process, should be lawful and should be as job related as possible.

2-230.6b Where validity studies cannot or need not be performed. There are circumstances in which a user cannot or need not utilize the validation techniques contemplated by the guidelines. In such circumstances, the user should utilize selection procedures which are as job related as possible and which will minimize or eliminate adverse impact. Refer to Part 60-3.6.

2-243.7 The statistical analysis of the SCRR (IRA) should be performed for each relevant personnel activity in each job group which exhibits a utilization problem itself, or is part of a focus job area, except that:

2-230.7a In cases where there is a 0 (zero) in any part of the IRA equation, the formula cannot be used. Minorities or women may be suffering adverse impact or be victims of disparate treatment in just such instances, e.g., where there were enough promotional openings that minorities or women, based on their internal availability, could have been promoted, but none were. In such instances, the EOS should identify the activity as a possible area of adverse impact.

2-230.7b In cases where the numbers involved in a personnel activity are too small to permit meaningful analysis no IRA analysis need be performed: e.g., when there are 5 (five) or fewer actions, the result of IRA analysis may be very distorted. The EOS should exercise professional judgment in such cases to determine if, based on the particular circumstances of the particular review, such an activity requires follow-up examination during onsite review.

2-230.7c IRAs may be performed for job groups exhibiting no utilization problems (nor part of focus job areas) when the EOS believes there is reason to perform such analyses.

2-230.8 Where analysis indicates adverse impact, the contractor should be required to show that the procedure has been validated pursuant to the requirements of 41 CFR Part 60-3, or that the criteria are justified by "business necessity," that less onerous procedures are unavailable, and that such criteria are non-discriminatory in nature and application.

2-230.8a Where contractor is unable to make such a showing, the EOS should:

2-230.8a1 Determine how long the procedure has been used. Use of the procedure during any period subsequent to the effective date of the Executive Order is a violation unless the contractor is able to provide substantial evidence of validity, and a subsequently performed validation study meeting the requirements of 41 CFR Part 60-3 demonstrates that the procedure is valid. (Remember, however, that if disparate treatment has occurred, the fact that a validation study shows the new procedure or requirement to be valid will not normally be controlling.) Refer to section 2-235.

2-230.8a2 Obtain corrective action that eliminates the effects of the contractor's past noncompliance with 41 CFR Part 60-3. The EOS should identify, insofar as possible, all minorities and women who were injured by the noncompliance. This will include all applicants for hire or promotion who are members of the race, sex or ethnic group that experienced the adverse impact. They are an affected class for whom full relief, including back pay, must be obtained (refer to chapters 7 and 8) unless the contractor is subsequently able to demonstrate that the procedure is a valid predictor of job success, and less onerous procedures are not readily available, and that disparate treatment is not present. Refer to section 2-230.9 pertaining to contractor assertions of validity. Where a contractor chooses to attempt to validate the practice, in accordance with 41 CFR Part 60-3, potential back pay liability will continue to accrue while the validation study is in progress. Where the study fails to demonstrate that the practice is valid, all persons injured by the practice (including those injured while the study was in progress) will be due full relief. Refer to section 2-230.8a1.

2-230.8a3 Adverse impact will only be allowed to continue if the contractor can demonstrate substantial evidence of validity, and has in progress studies designed to produce the additional data required in a reasonable period of time. Where such claims are made by the contractor, the evidence and information on the proposed study will be sent to the Division of Program Analysis for evaluation.

2-230.8a4	Obtain corrective action sufficient to eliminate adverse impact. A contractor may choose to utilize alternative selection procedures to eliminate adverse impact or as part of an affirmative action program. Such alternative procedures should eliminate the adverse impact in the total selection process, should be lawful and should be as job related as possible. Refer to 41 CFR 60-3.6.
2-230.9	Where the contractor asserts that the selection process has been validated in accordance with 41 CFR Part 60-3:
2-230.9a	Determine whether the contractor has fulfilled its obligation to investigate alternative selection procedures having less or no adverse impact. Where such a procedure is available and has been shown to be equally valid for the same purpose, the contractor must use it. If this obligation has not been met, the EOS should ensure that corrective action is taken.

2-230.9b Obtain a copy of the validation study for audit by the Division of Program Analysis where the contractor states one has been completed and that equally valid selection procedures having less adverse impact are not available. The validation study must meet the requirements of 41 CFR Part 60-3. The EOS should also submit information detailing the adverse impact found, data used to compute adverse impact, and any contractor actions to eliminate adverse impact.

2-230.9c Ensure that the contractor affords a reasonable opportunity for retesting (41 CFR 60-3.12).

2-230.9d Identify and obtain corrective action for any victims of disparate treatment. Refer to section 7-30.3c. They are potential members of an affected class for whom the remedies detailed in chapters 7 and 8 are required.

2-230.9e Verify the accuracy of job descriptions for job titles for which the employee selection procedure is used. For example, where a height or weightlifting requirement is involved, verify the description of the physical effort required by the job and the reason(s) for the requirement.

2-230.10 The EOS should be aware that 41 CFR Part 60-3 generally does not require validation of any test or procedure that does not have an adverse impact, or for which the adverse impact has been eliminated. However, current lack of adverse impact will not excuse the past adverse impact of an unvalidated selection procedure. If at any time in the past a selection procedure had an adverse impact, the contractor must either demonstrate validity (under 41 CFR Part 60-3) and lack of a less onerous alternative, or provide appropriate relief for the persons affected by the adverse impact.

2-235 Identification of disparate treatment caused by selection procedures; and corrective action.

2-235.1 Seemingly "neutral" or "new" employee selection procedures and job requirements, even if facially job-related and even if no adverse impact is present, may violate the Executive Order if they result in disparate treatment. For example, minorities or women may have traditionally been excluded from certain jobs on the basis of their race or sex. The contractor subsequently informs them that they are eligible for selection into the jobs from which they had traditionally been excluded but that they must pass a test or meet an educational requirement which contemporary males or whites were not required to meet when they entered the job in question. Under these circumstances, use of the new test or educational requirement would normally violate the Executive Order regardless of whether adverse impact is present. Identification and correction of such procedures (including relief for persons injured by them) are primary objectives of the review process.

2-235.2 Each desk audit should include an evaluation of whether the contractor's procedures result in disparate treatment. In particular, attention should be devoted to determining whether the contractor is utilizing job related physical or mental job qualification requirements.

2-240 Adverse impact resulting from employee selection procedures used by outside agencies on behalf of contractors: Identification, validation, and corrective action. The EOS should normally follow the succeeding guidance where a contractor used an employment agency or service:

2-240.1 41 CFR 60-3.10 specifies that contractors are responsible for actions taken on their behalf by employment agencies. "Employment agencies" include both organizations that provide professional evaluations of job candidates and those involved in the recruitment and referral activities.

2-240.2 When contractors accept both referrals and direct applications, all candidates will be categorized as:

2-240.2a Direct applicants (or "gate or mail applicants"),

2-240.2b Candidates referred by private employment agencies,

2-240.2c Candidates referred by State Employment Security agencies, or

2-240.2d Candidates referred by other individuals or organizations.

2-240.3 The IRA has already been used, at this point, to determine whether there has been an adverse impact of the contractor's selection practices. The IRA may also be used to analyze the treatment of referrals from different sources. Referral rates of minorities and women by various referral sources should also be compared to see whether significant differences exist which may indicate discriminatory treatment.

2-240.3a Where adverse impact in referrals is suspected and the contractor uses a referral agency, the contractor should have obtained from the referral agency, and the EOS should obtain from the contractor, information showing (1) what selection procedures are being used on behalf of the contractor; (2) the total number of applicants by race, sex and ethnic group; (3) the number of persons by race, sex and ethnic group referred to the employer; and (4) the impact of the selection procedures and evidence of the validity of any such procedures having an adverse impact. Refer to 41 CFR Part 60-3, Question 63.

2-240.4 Section 402 requires Federal contractors to list suitable job openings with State Employment Security agencies. All covered Federal contractors will, therefore, be considered to be "using" State Employment Security agencies. Contractors will not be "using" a private employment agency simply because they receive unsolicited referrals from it. However, if the contractor solicits the referrals or interviews or contracts any of the applicants referred by an agency for further information, the contractor will be considered to be "using" it. (Note, however, that 41 CFR Part 60-2 suggests that contractors solicit referrals from women and minority-oriented placement services.)

2-240.5 In addition to determining whether the contractor's own procedures have an adverse impact, the EOS should attempt to determine whether the procedures of employment agencies used by a contractor have an adverse impact.

2-240.5a1 Private employment agencies. Where adverse impact on minorities, or women, results from procedures used by private employment agencies, contractors are required to do one of the following:

2-240.5a1a Ensure that the private employment agency eliminates the adverse impact.

2-240.5a1b Obtain validation data as required by 41 CFR Part 60-3.

2-240.5a1c Stop dealing with the private employment agency.

2-240.5a2 The EOS should not normally advise contractors to discontinue using the services of private employment agencies unless:

2-240.5a2a There is an adverse impact on any race, sex or other group and

2-240.5a2b The procedures used by the private employment agency have not been validated, and the agency refuses to validate them or eliminate the adverse impact.

2-240.5a3 Where the private employment agency has a validation study in progress, the provisions of 41 CFR 60-3.5J will apply.

2-240.5b State Employment Security Agencies

2-240.5b1 State Employment Security agencies maintain data on the sex, minority group status and disposition of all applicants they process. When unvalidated tests are used, the ETA requires that the agencies refer minority applicants for job openings in at least the same ratio as minorities are represented in the total number of applicants. Thus, testing by these agencies should rarely have an adverse impact.

2-240.5b2 The following procedures will be used only where adverse impact is suspected and, (1) it is determined that the local State Employment Security office is the sole referral source, or (2) it can be determined that the composition of the applicant flow from such office is the direct cause of the suspected adverse impact. Where either of these two conditions is established, then the contractor should be asked to furnish evidence of the validity of any tests used by the local State Employment Security office. Where such evidence is not available, the following procedures apply:

2-240.5b2a Source documents. Table 27, Placement in Openings Received from Federal Contractors and Agencies, and Table 91, Year to Date Summary of Service to Individuals in the Employment Service Automated Reporting System (ESARS) are needed to determine whether adverse impact exists. If these tables are not available in the local office, they will be requested from the director of the State Employment Security agency. Tables 27 and 91 are prepared monthly and contain cumulative figures for the fiscal year through the month shown. Normally, the cumulative figures for the past year will be used. If the numbers in the latest available monthly report are too small to be meaningful, cumulative figures for previous fiscal years may be used. In the alternative, if the numbers for the past year exceed 500, it may be appropriate to use time periods of less than one year.

2-240.5b2b Applicants. All necessary figures are shown in row 010 of Table 91. Total applicants are shown in column C of this row, women applicants are shown in column D, black applicants in column C, and Hispanic applicants in column I. Other minorities are shown in column H, and total minorities in column F. The figures for nonminority applicants are derived by subtracting the figure in column F from that in column C. Figures for male applicants are derived by subtracting the figure in column D from that in column C.

2-240.5b2c Referrals. All figures on referrals to Federal contractors are shown in Table 27, column K. Total referrals are shown in row 010 of this column; referrals of men are shown in row 015, referrals of women are shown in row 020, referrals of blacks in row 105, referrals of Hispanics in row 130, referrals of American Indians in row 110, and other minority referrals in row 120. There are no figures for minorities or nonminorities as such in this table. The best estimate of the number of minorities referred can be obtained by adding the figures in rows 105, 110, 120, and 130. The best estimate of the number of nonminorities can be obtained by subtracting the total minority figure from the figure in row 010. There will be some inaccuracies in these totals due to the fact that some Hispanic individuals may also be included in the black or American Indian groups.

2-240.5b3 Procedures for determining whether procedures of State Employment Security agencies are having an adverse effect on minorities or women. The EOS should use the IRA formula to determine whether adverse impact is present. In performing the IRA, referrals will be treated like hires would otherwise be treated.

2-240.5b4 The EOS should not advise contractors to stop using State Employment Security agencies. However, if the contractor is using only the State agency, it should be required to use additional sources where the State agency does not supply an adequate flow of minorities or women, according to their availability.

2-240.5b5 If OFCCP becomes aware that an agency is not complying with ETA requirements or is otherwise failing to provide equal employment opportunity, the problem should be brought to the attention of the appropriate ARA, who should attempt to resolve the problem with the Regional ETA Administrator.

2-240.5b6 The EOS should obtain the following information regarding tests administered by State Employment Security agencies having adverse impact (all three items are necessary before the adequacy of a claim of validity can be determined):

2-240.5b6a The "S" number for example, S-143R, date, and job title(s) shown on the cover of each technical report used to show the validity of business necessity of the last battery.

2-240.5b6b A description of each of the contractor's jobs for which the test battery is administered and, if possible, the equivalent title and code from the Dictionary of Occupational Titles for each job.

2-240.5b6c The group membership, sex, age, and educational attainment of the contractor's applicants for the job(s) in question.

2-250 Audit of contractor's compliance with the requirements of the OFCCP Sex Discrimination Guidelines.

2-250.1 The OFCCP regulations entitled "Sex Discrimination Guidelines" are set forth in 41 CFR Part 60-20.

2-250.2 Some specific policy questions that frequently arise in applying 41 CFR Part 60-20 are addressed below:

2-250.2a A contractor should seek women for part-time as well as full-time employment. Many women with valuable skills are excluded from the job market because of the rigidity of conventional hours of work. Affirmative action should include careful review of work needs to ensure that these women are not excluded from employment opportunities. In some cases, redesign or hours of work can result in greater utilization of women.

2-250.2b A contractor must provide equal working conditions to both sexes. Where State laws provide special minimum wages, overtime pay, or brief rest periods for women, these benefits must also be given to men. In addition, contractors may not use these laws as bases for refusing to hire women or for limiting their hours of work, etc. AAP's must provide for the elimination of any policies, procedures, or working conditions inconsistent with the requirement of equal treatment. Refer to 41 CFR 60-2.31.

2-250.2c A contractor must compensate employees without regard to sex. The most obvious form of discrimination occurs when men and women are paid different wages for the same jobs.

A more subtle and pervasive form of discrimination may occur when men and women are employed in similar, but not identical, jobs. For example, the production division of an electrical manufacturing company might have three departments: assembly (all women, where the average wage is $3 per hour); wiring (all men, where the average wage is $4.75 per hour); and circuit boards (also all men, with an average wage of $4.70 per hour). The highest wage in the assembly department is $3.50 per hour, but in the circuit board and wiring departments, new hires with no previous experience start at $3.60 per hour. Although the jobs in the various departments are not exactly alike, the sum of the skills, abilities and effort required are roughly equivalent. Such a disparity in wages for equivalent jobs may constitute sex discrimination and/or may perpetuate the effects of past discrimination. Appropriate remedial action may include, but not be limited to, modification of wage rates, back pay, special transfer rights, seniority credits, etc. Such situations also require the affected class remedies in chapter 7.

2-250.2d There must be no difference in either the mandatory or optional retirement ages for men and women.

2-250.2e Sex is not a bona fide occupational qualification (BFOQ) for a job except in extremely rare instances. Any exclusion of men or women from a job must meet one of the following standards:

2-250.2e1 A need for authenticity or genuineness, such as for actors or models.

2-250.2e2 A need to avoid offending public standards of morality or propriety (for example, a restroom attendant).

2-250.2f A contractor must not advertise in newspaper columns headed "male" or "female" (or "male interest" or "female interest") or express a sex preference in the advertisement unless the job is one of the very few (see section 2-260.2e above) for which sex is a BFOQ. An advertisement in a column headed "male" or "female" or otherwise expressing an orientation in regard to sex is an expression of preference, limitation, or specification prohibited by 41 CFR 60-20.2(b).

2-250.2g A contractor may not make a distinction in employee benefits (or in its contributions for benefits or in the contributions required of employees) based on sex. Such benefits include insurance, premiums, welfare programs, and similar fringe benefits.

2-250.2h A contractor must, at a minimum: (1) provide a reasonable period of time away from work for childbearing and recovery therefrom and (2) reinstate each woman returning from maternity leave to her original position or one of like status and pay without loss of service credits, including accrual of seniority while on maternity leave if failure to accrue would place a woman at a competitive disadvantage for such things as promotions and layoffs. A job with significantly different hours or days of work, or performed a substantial distance from the employee's original work location, is not considered to be a job of "like status." Refer to 41 CFR 60-20.3(g)(1), and especially (g)(2) (which provides minimum standards regardless of whether or not the contractor has other leave policies).

2-250.2i A contractor may not specify when maternity leave must begin. This is primarily a medical decision which it is not reasonable to make in terms of a blanket policy. The time when a pregnant employee commences her maternity leave of absence is a matter between her and her doctor. Refer to 41 CFR 60-20.3(g).

2-250.2j A contractor's employment policies must not be applied differently to married and unmarried women. For example, a contractor must apply maternity leave policies in the same manner to married and unmarried women. Refer to 41 CFR 60-20.3(d).

2-250.2k A contractor may not refuse to hire, train, or promote women because of marital or family status unless it also refuses to train or promote similarly situated men. Any distinction between married and unmarried persons must apply equally to both sexes. For example, a contractor cannot refuse to hire women with young children unless it applies the same exclusionary policy to men. Refer to 41 CFR 60-20.3(d).

2-250.2l A contractor may not exclude women from jobs it may believe are dangerous or "unsuitable" for women to perform. Unless sex is a BFOQ for a job, a contractor must consider women as well as men for employment in such jobs. Hiring must be based on individual qualifications. Working conditions and standards must apply equally to both sexes. Refer to 41 CFR 60-20.3(b) and (f).

2-250.2m The requirements of the Executive Order supersede any State or local laws restricting the employment of women. A contractor may not use State or local laws as an excuse for excluding women from certain jobs. Women must be offered jobs for which they are qualified, even if there is a State law restricting the ability of women to work nights, limiting the number of hours women can work, or the amount of weight women can lift. Refer to 41 CFR 60-20.3(f), and 60-1.31.

2-250.3 Each desk audit should normally include a review of the contractor's maternity leave policies to ensure that they comply with the requirements in sections 2-250.2h and i. Where noncompliance is found, the EOS should attempt to identify all persons adversely affected by it and secure the remedies specified in chapter 8.

2-250.4 Each desk audit should include an analysis of the contractor's retirement plans, employee insurance programs, and other fringe benefits.

2-250.4a Employee benefits include, but are not limited to, insurance plans (including medical, hospital, accident, and life insurance), pension and retirement benefits, and leave.

2-250.4b The EOS should review employee benefit programs to ensure that they are afforded to all employees on a non-discriminatory basis.

2-250.4c Commonly identified deficiencies related to benefit programs include:

2-250.4c1 Group insurance benefits are provided for one sex but not the other.

2-250.4c2 Male employees may insure spouse and children, but women may insure only children.

2-250.4c3 Family coverage is provided for men, but only individual coverage is provided for women.

2-250.4c4 Differences exist in mandatory or optional retirement ages based on sex.

2-260 Audit of compliance with the regulations entitled "Guidelines on Discrimination Because of Religion or National Origin."

2-260.1 Policy. 41 CFR Part 60-50 requires that Federal contractors review their employment practices to ensure that applicants are employed, and that employees are treated during employment, without regard to their religion or national origin. Where deficiencies are identified, required corrective action includes:

2-260.1a The obligation to make special recruitment efforts including affected class relief, where appropriate, where members of a religious or ethnic group are not receiving fair consideration for job opportunities. Refer to 41 CFR 60-50.2(b) and 60-1.26.

2-260.1b The obligation to reasonably accommodate an employee's or prospective employee's religious observance or practice. Refer to 41 CFR 60-50.3.

2-260.1c The obligation to hire and assign employees for work to be performed abroad without regard to religion or national origin. Federal contractors are only exempted from this obligation when hiring persons outside of the United States for work to be performed outside of the United States (41 CFR 60-1.5(a)(3)). Thus, any Federal contractor or subcontractor hiring workers in the United States for either Federal or non-Federal work would violate the Executive Order if it refused to employ any person because of that person's religion or national origin. Such refusal violates the Executive Order regardless of whether it is based on a contractor's own discriminatory policy, or an exclusionary policy of the country where or for which the work is to be performed. Any contractor unable to acquire a visa for any employee or potential employee to a country with which it is doing business (where the country's refusal is believed to be due to the race, religion, sex, color, or national origin of the employee or potential employee), must immediately notify the Department of State. Appropriate action will be taken through diplomatic channels to gain entry for the individual. The Director, OFCCP must also be notified.

2-260.2 Procedure. The EOS should:

2-260.2a Review data submitted for the desk audit or obtained during community contracts. Any potential problem areas regarding discrimination on the grounds of religion or national origin should be pursued during the onsite review.

2-260.2b Determine whether the contractor's policies and procedures comply with 41 CFR 60-50.3, which requires contractors to make reasonable efforts to accommodate an employee's or prospective employee's religious observances and practices.

Is there evidence that persons are not hired due to the need to accommodate their religious observances or practices?

2-260.2c Where a contractor performs work in or for foreign countries, is there evidence that the contractor discriminated based on national origin or religion in assigning or hiring persons to perform such work? Minimum remedies are described in section 8-300. Where a foreign government denied a visa to an employee of the contractor on the grounds of race, color, sex, religion, or national origin, did the contractor immediately notify the Department of State, and the Director, OFCCP?

2-270 Audit of employee listings and computer printouts. Refer to the information requested in Item 6 of the Enclosure to the Letter Requesting AAP and Support Data.

2-270.1 Identify any apparent race, ethnic, or sex-based discrepancies in pay. Refer to section 5-140 for procedures which should be followed where apparent discrepancies are identified.

2-270.2 Where concentrations of women or minorities are identified, use employee listings to identify names, seniority dates, and other pertinent information on potential affected-class members, and for contemporaneously hired non-affected class members.

2-280 Audit of employment application and job requisition forms.

2-280.1 Review forms to identify any obviously discriminatory items (for example, job requisition forms that allow supervisors to specify the sex of applicants to be employed or referred for consideration).

2-280.2 Inquiries about arrest records of applicants is normally prohibited. Refer to 43 CFR 60-3, Sect.3C and answer number 25(2) in the Questions and Answers to clarify and provide a common interpretation of the Uniform Guidelines on Employee Selection Procedures. Use of convictions as bases for rejection is discouraged except where a relationship can be shown between the conviction and the job. In addition, inquiries relating to credit history, type of military discharge, marital status, number and ages of children, and home ownership are also normally prohibited.

2-290 Audit of information on discrimination complaints. The EOS should:

2-290.1 Compare the information received from the contractor with that received from Federal, State, and local agencies. Note any discrepancies.

2-290.2 Note provisions of any conciliation agreements relevant to the contractor's compliance with the Executive Order and Section 402 and 503 (for example, hiring goals, promotion, and transfer remedies).

2-290.3 Note indications of potential pattern and practice problems that should be explored onsite. For example, large numbers of complaints have been filed by employees in certain job areas, especially areas of concentration; or large numbers of complaints have been filed by applicants or employees of a particular race, religion, ethnic group, or sex, or covered veterans or handicapped individuals.

2-290.4 Note potential evidence of lack of good faith efforts to attain goals; the existence of affected classes of applicants, employees, or terminated employees; and other problem areas.

2-290.5 Where appropriate, contact the EEOC district office or State or local fair employment agency to arrange to review case files before beginning the onsite review.

2-300 Post-desk audit actions

2-300.1 At the end of each desk audit, the EOS should:

2-300.1a Summarize in the SCRR those compliance judgments that can be made based on the desk audit (for example, acceptability of AAP, acceptability of maternity leave policy and benefit programs).

2-300.1b Determine compliance questions that must be resolved during an onsite review. Where such questions are identified, develop a proposed plan of inquiry for an onsite review. That is, for each compliance question, identify as much as possible records to be reviewed and persons to be interviewed to resolve the compliance question.

2-300.1c Recommend whether an onsite review should be conducted.

2-300.2 Onsite reviews normally will be required if any of the following applies:

2-300.2a No onsite review has been conducted within the preceding 24 months.

2-300.2b Possible AAP deficiencies could not be fully resolved during the desk audit.

2-300.2c Questions of good faith effort to meet AAP goals are identified.

2-300.2d Possible noncompliance with conciliation agreements or other commitments is noted.

2-300.2e The Impact Ratio analysis indicates disparate treatment or adverse impact the existence of which could not be explained during the desk audit.

2-300.2e Statistical analysis indicates the possible existence of an affected class of applicants, incumbent employees, or terminated employees.

2-300.2f Other significant compliance questions concerning the contractor's equal employment opportunity program.

2-300.2g The review resulted from a discrimination complaint.

2-300.3 Determination of whether onsite reviews will be scheduled.

2-300.3a Authority. AODs should determine whether onsite reviews are necessary. AODs may, in their discretion, schedule onsite compliance reviews even where the desk audit does not reveal any problems for which an onsite review must be conducted. Furthermore, a desk audit is not always a prerequisite to an onsite compliance review.

2-300.3b The AOD is responsible for ensuring:

2-300.3b1 Where an onsite review is not scheduled: That the desk audit was thorough and complete, and that the determination that no compliance questions apparently exist was soundly based and properly documented.

2-300.3b2 Where an onsite review is scheduled: That compliance questions requiring an onsite review have been identified, and that the review plan adequately addresses the identified compliance questions. The onsite review need not be limited to the deficiencies identified during the desk audit.

2-300.4 Post-desk audit actions where an onsite review is scheduled. The EOS should:

2-300.4a Identify any additional statistical data, documents, or other information that must be obtained from the contractor. Depending on the data and time available, the contractor may either be requested to furnish the data for desk audit or to make it available onsite.

2-300.4b Notify the contractor of the date(s) of the onsite review.

2-300.4c Arrange any necessary appointments with representatives of community groups and Federal, State, and local agencies (ensure that personnel of the EEOC district office or State or local fair employment agency are aware of the need for specific investigative files or other documents, and that the information will be made available on the desired date).

2-300.4d Ensure that any necessary security clearance has been obtained, where required.

2-300.5 Post-desk audit actions where an onsite review is not scheduled. Refer to chapter 3-230.

2-310 Maintenance of case chronology. The EOS should prepare a case chronology for each compliance review. It should cover events occurring from the date all Standard Inquiry Forms are mailed to fair employment agencies through the date case closing documents are prepared and approved. Record each significant contact (including telephone conversations) with contractor officials. Indicate the date, nature of contact, person contacted, summary of discussion or action taken, and EOS's name. Record correspondence in the same manner. Log in events as they occur, as it is difficult to reconstruct events after a review is completed. The case chronology is an integral part of the case file, and will be an invaluable tool if enforcement action is necessary.

INQUIRY FOR COMMUNITY AND COMPLAINT DATA

Dear

A compliance review is scheduled for the:

Please forward to our office any information you have concerning complaints filed against this contractor, and/or its EEO posture in the community which you believe we should consider in the course of our review.

Since this review will begin in approximately 30 days, and we submit our final report within 60 days thereafter, an early response to this request will be most appreciated.

Sincerely,

OFCCP Standard Inquiry Form

Figure 2-1

OFCCP LETTER REQUESTING AAP AND SUPPORT DATA

Mr. John Doe
YXC Corporation
Anytown, USA

Dear _______,

Your facility located at ________________ has been selected for a compliance review under Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, and implementing regulations. The compliance review will be conducted in accordance with 41 CFR Part 60-60 which outlines three phases in which the process is conducted. Those phases normally include a desk audit, an onsite review and, where appropriate, an off-site analysis.

For desk audit purposes we are requesting a copy of your affirmative action program (AAP) and supporting documentation, prepared in accordance with the requirements set forth in CFR 60-1.40 and 60-2.10 through 60-2.32. We are particularly interested in the AAP's contents and supporting data such as that indicated in the enclosed itemized listing.

Our audit of the AAP and supporting documentation is designed to assist us in preparing for the onsite examination and to reduce the amount of time and level of effort required of OFCCP and contractor representatives during that phase of the review. However, you should note that CFR 60-60.3(b) authorizes the initiation of enforcement procedures in circumstances in which the material submitted for the desk audit does not represent a reasonable effort to meet the affirmative action program requirements.

We would appreciate it if you would submit the AAP and appropriate supporting documentation as soon as possible and in any case not later than____________
30 days from
_____________.
date of letter

If you have questions concerning OFCCP's compliance review, please feel free to contact________________________ at ________________________.

Sincerely,

Enclosure: Itemized Listing

Figure 2-2

OFCCP Letter Requesting AAP and Support Data

OMB Approval No. 44R1568

Itemized Listing

Required AAP contents, including supporting documentation such as those indicated by check (√) mark are essential to us in performing the desk audit phase of the compliance review.

____a. Copies of your Employer Information Reports EEO-1 (Standard Form 100 Rev.) for the years ____1976 ____1977 ____1978 ____1979. (See 41 CFR 60-1.7, 60-1.40(c) and 60-2.11)

____b. Workforce Analysis (41 CFR 60-2.11(a)).

____c. Copies of progression line charts. (41 CFR 60-2.12(m))

____d. Job group and availability analysis. (41 CFR 60-2.11(b))

____e. Documentation that areas of underutilization have been identified and goals and timetables have been established to correct any deficiencies, together with a plan of action to achieve those goals and timetables. (41 CFR 60-2.13 (d) (e) and (f))

____f. Summary data and information which indicate the numerical and other results of your affirmative action goals for each job group for the current goal year and the preceding goal year. For each goal not attained/being attained, describe the good faith efforts which were/are being made to achieve them. (41 CFR 60-1.40(c) and 60-2.12)

____g. An analysis of your selection process, including a determination of whether it eliminates a significantly higher percentage of minorities or women than non-minorities or men. (41 CFR 60-1.40(b)(2), 60-2.23(b)(3) and 60-2.25) This analysis may consist of a summary of applicant and hire activity identified by race and sex for each job group for the (a) present goal year and (b) previous goal year and include: total applicants, total offers of employment, total hires, total rejections. However, if you do not have the data arranged in that manner you may choose to submit it in the form in which it is available.

Enclosure

Figure 2-2

____h. Analysis of your transfer and promotion practices to determine if lateral and/or vertical movement of minority or female employees is occurring at a lesser rate (compared to workforce mix) than non-minority or male employees. (41 CFR 60-1.40(b)(2), 60-2.23(b)(2) and 60-2.25) The analysis may consist of a summary of promotion and transfer activity during the (a) present goal year and (b) previous goal year, identified by race and sex, including the department/job group/job title into which employees were promoted and each department/job group/title from which promoted. However if you have performed the analysis under a different arrangement you may choose to submit it in the manner in which it is available.

____i. Summary of monitoring reports which reflect the degree to which the non-discriminatory policy is carried out with respect to terminations of employment. (41 CFR 60-2.25) This information may consist of a summary of employee terminations with identification of race and sex and the departments and job titles from which they were terminated. However, if you have not compiled the data in this form you may choose to submit it in the form in which it is available.

Although it is not specified as one of the required contents of the AAP, it would assist us in conducting the desk audit if you would also attach a copy of your collective bargaining agreement, if any, or other available information indicating your policies and procedures governing employee mobility (i.e., promotions, transfers, etc.).

Figure 2-2

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APPENDIX 2A

PROCEDURES FOR

SUPPLY AND SERVICE CONTRACTORS

(EXECUTIVE ORDER)

2A-10 DESK AUDIT PORTION OF STANDARD COMPLIANCE REVIEW REPORT (SCRR)

2A-10.1 PURPOSE

2A-10.2 APPLICABILITY

2A-20 AMIS (PART A)

2A-20.1 PURPOSE

2A-20.2 PROCEDURES

2A-30 DESK AUDIT (PART B)

2A-30.1 PURPOSE

2A-30.2 PROCEDURES

2A-10 Standard Compliance Review Report (SCRR) (Executive Order)

2A-10.1 Purpose. To ensure the effective use of OFCCP resources and to determine whether Federal contractors are in compliance with 41 CFR Parts 60-1 through 60-60.

2A-10.2 Applicability. Unless the Director, OFCCP or appropriate ARA orders otherwise, each EOS should normally complete the SCRR for all Executive Order desk audit compliance reviews conducted, except for construction. It will be part of the case file of the reviewed contractor.

2A-20 Automated Management Information System (AMIS) (PART A)

2A-20.1 Purpose. The AMIS is a structured complex of persons, machines, and procedures designed to generate an orderly flow of information necessary for decisionmaking.

2A-20.2 Procedures. Complete the first three pages (AMIS) of the SCRR as follows:

Block 1. Review Control Number. Seven entries, consisting of a letter and six numbers, assigned to each completed review report prior to input to the AMIS file.

Block 2. Facility Duns ID. Enter the nine-digit Dun & Bradstreet identification number for the establishment being reviewed. (MANDATORY ENTRY)

NOTE: Use the following procedures for obtaining D&B numbers:

1. Obtain the D&B number from the EEO coordinator or other appropriate establishment personnel.
2. Check for number in D&B Reference Book or appropriate source, when not available from the establishment.

Block 3. Record Type. Enter a letter code to distinguish the type of input into the system.

"A" AMIS (Preprinted on OFCCP Form CC-50)

"C" Contractor Information Data Scheduling File (CIDS).

best copy available

"T" Tracking File.

Block 4. Action Code. Enter a letter code for each input, to define the type of action required. The letter codes are as follows:

"A" Add (Initial input only).

"C" Change (Changes data that passed validation and is in the Master file).

"D" Delete (Deletes an entire record).

"E" Correction (Corrects data that failed validation criteria and appears on Input Error list).

"Q" Inquiry (Request for specific information from the Master Record File).

"R" Re-Review (Updated data input, with the remainder of the data coming from a previous review that is on file).

"Z" Delete (Deletes a single Format Identifier Code (FIC) from the suspense file).

Block 5. Contract Administration Office (CAO). Enter the two-position code that identifies the office inputting the data.

Block 6a. Contractor Establishment Name. Enter the name of the establishment being reviewed. Avoid initials, acronyms, and abbreviations, if possible. However, if the entire name of the establishment cannot be accommodated by the number of spaces provided, standard abbreviations for company (Co.) and Corporation (Corp.) may be used.

ATTN: Enter information to further identify the establishment, for example:

Name: ABC Corporation
Attn: Blue Ridge Division

Street: Enter the street address or Post Office Box number of the establishment being reviewed. If the establishment is located in a rural area with no street address or P.O. Box number, enter "NO STREET"

City, State, and Zip Codes - Self-explanatory. (MANDATORY ENTRIES)

Note: Leave a blank space between words and do not use periods. Do not exceed the number of spaces provided. See appropriate State Codes in this appendix.

Block 6b. Type of Establishment. Indicate whether the establishment being reviewed is a single establishment (an establishment that is not a division or affiliate of a larger firm) or multiple establishment (an establishment that is a division or affiliate of a larger firm).

Block 6c. Previous Name of Establishment. Enter the previous name of the establishment, if it has been changed within the past 5 years. Initials, acronyms, or abbreviations may be used, if necessary.

Block 6d. Conciliation Agreement Indicator (Con ID). Enter "Y" for Yes and "N" for No to indicate that a conciliation agreement was submitted with the review.

Block 7a. Parent Organization. Enter the name, street, city, State, and zip code, if applicable.

Note: The parent organization is considered to be the one to which a notice to show cause would be sent. If a single establishment, leave blank. If the establishment being reviewed is the parent, repeat the same data as under 6a.

Block 7b. Parent D&B. Enter the nine-digit Dun & Bradstreet identification number for the parent of the establishment being reviewed. Leave blank if single establishment.

Block 8. Standard Industrial Classification (SIC) Code. Enter the SIC code from the Office of Management and Budget, Standard Industrial Classification Manual. The SIC code recorded on OFCCP Form CC-50 must contain the first three digits.

Block 9. Standard Metropolitan Statistical Area (SMSA). Enter the SMSA code from the table in this appendix. If the establishment is in an SMSA, an entry is mandatory. If not, leave blank.

Block 10. Last Onsite Review. Enter the year, month, and day of the last onsite visit to the establishment being reviewed. April 15, 1978 would be entered 780415.

Block 11. Organization Identification. Enter the code of the functional element responsible for conducting the review.

Block 12. Previous Control Number. Enter the control from the prior completed review.

Block 13. Format Identifier Code (FIC). Count. Enter the number of FIC's being input into the system.

Block 14. Establishment EEO-1 Number. Enter the first six digits following the letter "U" at the top of the Standard Form (SF) 100, Employer Information Report (EEO-1). If this number is unknown, enter "UNK" in the first three spaces of block 14.

Block 15. EEO-1 Year. Enter the last two digits of the year of the SF-100 (EEO-1) report number recorded in block 14 above. The year 1978 would be entered as 78. If unknown, enter "NO."

Block 16. Parent EEO-1 Number. Enter first six digits from the EEO-1 of the parent of the establishment being reviewed. Leave blank only if a single establishment is indicated in block 6b.

Block 17. EOS Number. Enter the three-digit number of the EOS assigned the review.

Block 18. Transaction Type. Enter the letter code to identify whether a previous entry was made into the AMIS within the past 12 months.

"A" First entry in the 12-month period.

"B" Subsequent review entries during the same 12-month period.

Block 19. AAP Update Due. Enter the year, month, and day the establishment's AAP is due for revision; if the date is May 15, 1979, enter 790515.

Block 20. Type Review. Enter the three-digit code of the type of review. (MANDATORY ENTRY)

CODES

101-Initial Review. An onsite compliance review of an establishment that has not been reviewed since April 2, 1972.

102-Initial Preaward Review. An onsite preaward review of an establishment which has not been reviewed since April 2, 1972.

103-Followup Review. An onsite compliance review of an establishment which has been reviewed subsequent to April 2, 1972.

104-Complaint Investigation. A complaint investigation assigned a case number by the RO and assigned to the appropriate AO for investigation.

202-Followup Preaward Review. An onsite preaward review of an establishment reviewed subsequent to April 2, 1972.

303-Desk Audit Review. A compliance review of an establishment requiring a desk audit only. Refer to section 2-300.2 for determining when an onsite review is not required.

Block 21. Compliance Status. Enter the compliance status of the establishment being reviewed using one of the following:

1 -- Compliance

2 -- Non-Compliance

Block 23. Date AAP Received. Enter year, month, and day that establishment's AAP and support data are received. May 20, 1978 would be entered as 780520. If the establishment was previously reviewed during the same 12-month period, and a new AAP was not requested, enter the date the review started in lieu of the date the AAP was received. In the case of a preaward, enter the date of the onsite review.

Block 24. Preaward Over $1 Million. Check "Yes" or "No." Mandatory Entry, if block 20 reflects preaward review (102 or 202).

Block 25. Requesting Agency. Enter the identifier, from the list in this appendix, of the procurement agency requesting the preaward clearance. Mandatory Entry, if block 20 reflects a preaward (102 or 202).

Block 26. Date of Last Review. Enter year, month, and day of last compliance review. June 15, 1977 would be entered as 770615. Mandatory Entry, if establishment has been previously reviewed.

Block 27. Type of Last Review. Enter type of last review (see block 20 for review codes). Mandatory Entry, if establishment has been previously reviewed.

Block 28. Date Conciliation Started. Enter date conciliation commenced. Discussion to resolve outstanding issues or deficiencies with the establishment's representative subsequent to the exit conference is considered to be conciliation.

Block 29. Show Cause Issued. Enter year, month and date show-cause letter was received by the parent organization. May 20, 1978 would be entered as 780520.

Block 30. Progress Report Requested. Check "Yes" or "No" to indicate whether a progress report has been requested from the establishment being reviewed.

Block 31. Frequency Report Requested. Enter frequency of required progress reports (monthly, quarterly or semi-annually). Mandatory Entry, if block 30 is checked "Yes."

Block 32. Date of Next Review. Enter the projected date of the next review for this establishment. Mandatory Entry.

Block 33. Table of Deficiencies. Enter a check mark ( ) in items a through o to indicate deficiencies identified, deficiencies resolved, or no deficiencies. Mandatory Entries for all reviews. Entries must reflect determination and evidence contained in the body of the SCRR and must also be mutually consistent within the Table. (For instance, if an affected class of women is found, all items involved in the creation and maintenance of that affected class should also be checked as deficiencies, including item n, "Sex Discrimination.")

> Note: The EOS indicates the deficiency identified during the review by placing a check mark ( ) under deficiency "Yes." If an area shows no deficiencies during the entire review, indicate by a check mark ( ) under deficiency "No." If the deficiency is resolved during the review, indicate by a check mark ( ) under resolved "Yes." Any unresolved deficiency at the end of the review will be indicated by placing a check mark ( ) under resolved "No."

Block 34. Remarks. The questions concerning the establishment must be responded to for each review. In addition, this section may be used for any notations by the EOS relative to the review. On a separate attached sheet, describe the establishment in terms of workforce and facility(ies) size, type of industry and recent or anticipated expansion or contraction of its work force. Describe location of the establishment relative to minority population centers, existence of training institutions and characteristics of the surrounding community. Describe the establishment's compliance history, particularly whether it has been at any time the subject of a show cause notice or other enforcement action. Note any significant features of the AAP, such as a conciliation agreement or particularly noteworthy affirmative action.

Block 35. Hours Expended. Enter all hours expended during the review process in the applicable blocks (a-g).

a. Offsite Hours. Hours spent analyzing data or information relating to deficiencies or violations that would be more thoroughly analyzed away from the establishment before a determination of compliance status can be determined. This analysis should normally be performed prior to the conclusion of the exit conference.

b. Onsite Hours. Hours spent onsite at the establishment for the purpose of orientation of management; examination of records, personnel policies, procedures, and practices; examination of AAP's, posters, EEO-1 reports or employee interviews; verification of job content and assignments; exit interview with top management, and similar activities.

c. Report Writing. Hours spent writing the SCRR or the onsite narrative report. Mandatory Entry.

d. Travel time. Hours spent in actual travel status going to and returning from the establishment.

e. Community contact. Hours spent on community contact with State, local or community organizations in connection with a review to determine the image of the establishment as an EEO employer and the reputation of the establishment as a desirable place to work.

f. Conciliation. Hours spent by all personnel and any other official(s) in the conciliation or negotiation process subsequent to the exit conference.

g. Desk Audit. Hours spent in completion of the desk audit. Include preparation time and time spent reviewing and evaluating the establishment's AAP documentation and other relevant data. Do not include time spent writing the desk audit report.

Block 36. Date Review Completed. Enter the year, month, and day the approving official signs the report. May 15, 1978 would be entered as 780515. Mandatory Entry.

> Note: The approving official is the agency representative authorized to approve EOS's recommendation(s).

Block 37. Approving Official Code. Enter the three-digit number of approving official signing the report.

Blocks 38 through 46. Personnel Activity Table. Enter the personnel activity data for new hires, terminations, and promotions for each of the nine EEO-1 categories. Data should cover the 12-month period of the previous AAP. Check "not applicable" to indicate those categories not contained in the establishment's work force.

> Note: Some contractors may not have AAPs covering the normal review period. Refer to 41 CFR 60-1.40(c) pertaining to maintenance of AAPs. If the establishment did not maintain the data in an applicable category, write opposite those categories "establishment did not maintain data."

Blocks 47 through 55. Work force Analysis. Enter EEO-1 statistics as follows:

Line a.	EEO-1 data for year end, 4 years preceding current review.
Line b.	EEO-1 data for year end, 3 years preceding current review.
Line c.	EEO-1 data for year end, 2 years preceding current review.
Line d.	EEO-1 data for year end preceding current review.
Line e.	Current data, in EEO-1 format, as of the date recorded in block 23.
Line f.	Establishment's projections for current AAP year.

2A-30.1 Purpose. The purpose of the SCRR, Desk Audit, Part B, is to provide a systematic standardized approach to conducting a compliance review and preparing the comprehensive report. It is not meant to be an inflexible document, but is an effort to point out the essential elements that normally should be addressed.

2A-30.1a The compliance review is designed to:

2A-30.1a1 Consist of a comprehensive analysis and evaluation of each aspect of the contractor's employment practices, policies and the conditions resulting therefrom.

2A-30.1a2 Describe conditions in sufficient detail to permit verification of the conclusions and recommendations.

2A-30.1a3 Provide a mechanism for determining the acceptability of the contractor's basic AAP and support data.

2A-30.1a4 Provide preliminary determinations to identify areas in which potential deficiencies exist; assist in identifying additional information necessary for the onsite review; and direct the investigation efforts into these specific areas.

2A-30.1b A finding of apparent compliance (desk audit only) can normally be made without an onsite review only if none of the circumstances set forth in section 2-300.2 exist.

2A-30.2 Procedures. The SCRR (pages 4 through 13) are to be completed as follows:

Page 4 - enter the contractor's personnel activity data. These statistics should cover the 12-month period of the previous AAP.

Page 5 - Item 1 - Self-explanatory.

Item 2 - Analysis of EEO-1 Employment Patterns.

a. Enter the totals for each year from page 3 of the SCRR or the EEO-1s.

b. Based on your analysis of the EEO-1 data displayed in block "a" above, note whether the contractor's work force has been expanding or contracting and what relative changes have occurred in minority/female representation.

c. Identify categories which appear to be areas of current and/or persistent underutilization or concentration of minorities/women.

d. Note any substantial imbalance in representation of a particular minority group, females or males/females of a particular minority group.

Item 3 - Introductory Statement.

Areas to be covered must normally include, but are not be limited to, type of industry, overall minority/women work force in the labor area; public/private transportation; relevant community resource information file; and known complaints since last review.

Page 6 - Results of Previous Affirmative Action Plan. Enter data for job areas identified as underutilized at the inception of the previous AAP where hires and promotions occurred. If there were no hires, promotions or transfers, etc. into underutilized areas during the reporting period, no statistical summary is necessary. If there were new hires, promotions, transfers, etc. into underutilized areas where goals had been established, these areas should be included in the statistical summary.

Page 7 - Progress Under Current Plan. Enter data for job areas identified as underutilized at the inception of the current AAP where hires, promotions, etc. occurred. If there were no hires, promotions, etc. into underutilized areas during the reporting period, no statistical summary is necessary. If there were new hires, promotions, etc. into underutilized areas where no goals have been established, these areas should be included in the statistical summary.

Page 8 - Analysis of Previous Affirmative Action Plan and Progress Under Current Plan. Discuss the following items:

a. Net change in underutilization areas for previous AAP year, and

b. Current progress in identified areas of underutilization.

c. Use of opportunities to meet goals and/or progress in areas where unexpected openings occurred.

Page 9 - Status of Contractor Attainment of Narrative Commitments in AAP, Conciliation Agreement or Letter of Commitment. Concisely summarize the information included in the AAP or support data which indicates the extent to which the narrative commitments have, or have not, been attained. List information pertinent to making this determination which must be verified or obtained during the onsite review. These items should be addressed in the onsite narrative.

Page 10 - Identification of Potential Affected Classes. List those job areas where the results of the analysis indicates that specific corrective action may be required to remedy either under-representation or concentration of minorities/women.

Page 11 - Discuss Focus Job Areas (Potential Affected Classes) Which Appear to Require Further Onsite Examination. Discuss those job areas reflecting concentrations identified on page 10, which as a result of the analysis, appear to require further examination onsite to determine whether or not an affected class exists. Compare wage rates for areas of minority/women concentration; determine what policies, company and/or union, appear to restrict mobility and also discuss the reason(s) why other concentrations, if any, do not appear to require further examination.

Page 12 - Results of Disparate Treatment and/or Adverse Impact Analysis. Report the results of your analysis of personnel activity which would indicate any adverse impact and/or disparate treatment.

When a selection process causes adverse impact, the process must either be modified to eliminate the adverse impact, or components of the process which cause the adverse impact must be validated pursuant to 41 CFR Part 60-3, unless the contractor can show that the process is justified by business necessity and that a less onerous procedure is unavailable.

To determine whether there is adverse impact, the normal "rule of thumb" is as follows:

> Adverse impact generally exists when the selection rate for applicants or candidates from a particular race, sex, or ethnic group is less than 80 percent of the selection rate for applicants or candidates from the group with the highest rate.
>
> The Impact Ratio is a statistical method used to determine whether any race, sex or ethnic group has experienced an adverse impact from the use of employment practices. For each job group at the facility, a ratio is established for each major employment function. SCRR Forms C and D may be used to perform the Impact Ratio analysis.

The mathematical procedure to determine adverse impact, or to establish "Impact Ratios," is as follows:

1. Determine the acceptance rate for each group comprising at least 2 percent of the applicable labor area or labor force: e.g., Whites, Blacks, Hispanics, Asians/Pacific Islanders, American Indian/Alaskan Natives, men and women.

2. Determine which acceptance rate is the highest and compare all other acceptance rates to it. (The highest acceptance rate becomes the denominator, the lower acceptance rate becomes the numerator.)

Example for hiring:

Out of 100 white applicants, 40 are hired.
Out of 50 black applicants, 15 are hired.
Out of 25 Hispanic applicants, 5 are hired.

a. Determine the acceptance rate for each group. For a hire/acceptance rate, this is found by dividing the number of applicants into the number of hires.

White acceptance rate $= \frac{40}{100} = .4$ or 40%

Black acceptance rate $= \frac{15}{50} = .3$ or 30%

Hispanic acceptance rate $= \frac{5}{25} = .2$ or 20%

b. Determine which acceptance rate is the highest (in the above example the 40% white acceptance rate is the highest), and compare all other acceptance rates to it. (The highest acceptance rate becomes the denominator, the other acceptance rates become the numerators.)

$\frac{\text{Black acceptance rate}}{\text{White acceptance rate}} = \frac{.3}{.4} = .75$ or 75%

$\frac{\text{Hispanic acceptance rate}}{\text{White acceptance rate}} = \frac{.2}{.4} = .5$ or 50%

c. Finally compare all Impact ratios to 80 percent. If any Impact ratio is less than 80 percent, adverse impact generally exists.

i. The black Impact rate is 75% which is less than 80%.

ii. The Hispanic Impact rate is 50%, which is less than 80%.

In the above example, adverse impact exists against black and Hispanic applicants.

For any kind of adverse personnel action (e.g., termination, layoff, disciplinary action) determine which termination (or other adverse) rate is the lowest, and compare all others to it. The lowest termination rate becomes the numerator, the higher rate becomes the denominator.

Divide:

$$\frac{\text{The termination rate of group with lowest rate}}{\text{The termination rate of group in question}} = \underline{\quad\quad} \text{ percent}$$

Compare: The ratio to 80 percent.

Example for termination, layoff, disciplinary action:

Out of 100 male employees, 6 males are terminated.
Out of 50 female employees, 5 females are terminated.

a. Determine termination rate for male employees:

$$\frac{6}{100} = .06 \text{ or } 6 \text{ percent}$$

b. Determine termination rate for female employees:

$$\frac{5}{50} = .10 \text{ or } 10 \text{ percent}$$

c. Determine termination ratio:

$$\frac{6\%}{10\%} = .6 \text{ or } 60 \text{ percent}$$

d. Compare Impact ratio to 80 percent: If Impact ratio is less than 80 percent, there is generally adverse impact. In this case, adverse impact exists, as 60% is less than 80%.

IMPACT RATIO LEGEND

Action	Other*	Black	Hispanic	Asian/ Pacific	American Indian	White	Male	Female
Hires	H_o	H_B	H_h	$H_{A/P}$	H_{AI}	H_w	H_m	H_f
Promotion	P_o	P_B	P_h	$P_{A/P}$	P_{AI}	P_w	P_m	P_f
Training	T_o	T_B	T_h	$T_{A/P}$	T_{AI}	T_w	T_m	T_f
Applicants	A_o	A_B	A_h	$A_{A/P}$	A_{AI}	A_w	A_m	A_f
Terminations	X_o	X_B	X_h	$X_{A/P}$	X_{AI}	X_w	X_m	X_f

*Other: In all cases, "other" is the group with the highest rate (lowest rate for termination).

For example, if Hispanics have the highest promotion rate, the data for Hispanics are used as the "other," or comparison group for all other calculations involving investigation of adverse impact against race and ethnic groups in promotion.

NOTE: To calculate impact ratios for promotions, compare the number of promotions for each rate/sex group from and within (combine these two figures) a job group to the number of incumbents (of each rate/sex group) in that job group. The highest rate thus established is the rate against which all other promotion rates are compared. Any promotion rate less than 80% that of the group with the highest rate represents adverse impact.

It will be necessary in some cases to analyze promotions to a job group to ensure that a contractor is not promoting minorities or women to jobs that are less desirable than the jobs to which non-minorities or men are being promoted. This will require analysis on a promotion by promotion basis and does not lend itself to the statistical analysis of the impact ratio.

Note that two sets of comparisons must be made for each employment function (hire, promotion, training, applicants, terminations, etc.) for each job. One comparison involves investigating for adverse impact based on sex; the other comparison involves investigating for adverse impact against any race or ethnic group. The adverse impact investigations should generally not be made on groups broken down into such subgroups as "white females against Hispanic males." Generally, race and ethnic groups are compared to each other, and males are compared to females. However, in some cases it may be necessary to compare the rates for persons of different race/ethnic groups but the same sex(e.g., white females/black females) or all members of one sex with only one race/ethnic group of the other sex (e.g., all females/ white males).

Where the data cannot be given to the EOS broken down by job groups, an analysis should be made by EEO-1 categories, or as a last resort, by blue-collar and white collar job areas. In those cases, the contractor must be instructed to maintain data in the future in a fashion which lends itself to job group analysis.

Disparate Treatment. Refer to section 2-235, for instructions on identifying disparate treatment. Results should be reported on page 12 of the SCRR.

Page 13 - Summary of Desk Audit and Recommendations. Discuss conclusions reached from desk audit. If resolution was reached, indicate corrective action. If analysis revealed no apparent problem areas, summarize evidence supporting your assessment. Those problems that could not be resolved must be listed to support a recommendation for an onsite review (these problem areas will be reflected on page 1 of the Standard Compliance Review Report under "Table of Deficiencies").

Areas to be covered should include, but are not limited to:

1. Deficiencies in past goal attainment/good faith effort.
2. Deficiencies in AAP/support data, including problems with identified focus job areas.
3. Concentrations requiring further onsite examination.
4. Adverse impact in personnel activity.
5. Disparate treatment in personnel activity.
6. Problems indicated by unresolved questions.

The first line supervisor will coordinate in all recommendations for an onsite review.

STATE CODES

Alabama	AL
Alaska	AK
Arizona	AZ
Arkansas	AR
California	CA
Colorado	CO
Connecticut	CT
Delaware	DE
District of Columbia	DC
Florida	FL
Georgia	GA
Guam	GU
Hawaii	HI
Idaho	ID
Illinois	IL
Indiana	IN
Iowa	IA
Kansas	KS
Kentucky	KY
Louisiana	LA
Maine	ME
Maryland	MD
Massachusetts	MA
Michigan	MI
Minnesota	MN
Mississippi	MS
Missouri	MO
Canada	CN
Montana	MT
Nebraska	NE
Nevada	NV
New Hampshire	NH
New Jersey	NJ
New Mexico	NM
New York	NY
North Carolina	NC
North Dakota	ND
Ohio	OH
Oklahoma	OK
Oregon	OR
Pennsylvania	PA
Puerto Rico	PR
Rhode Island	RI
South Carolina	SC
South Dakota	SD
Tennessee	TN
Texas	TX
Utah	UT
Vermont	VT
Virginia	VA
Virgin Islands	VI
Washington	WA
West Virginia	WV
Wisconsin	WI
Wyoming	WY
Others	ZZ

STATISTICAL POLICY HANDBOOK-1978
U.S. Department of Commerce
Office of Federal Statistical
Policy and Standards

*New SMSA
**SMSA Name Change
***Change in Definition

APPENDIX A

STANDARD METROPOLITAN STATISTICAL AREAS TITLES AND DEFINITIONS

(as of April 1978)

Area Code	Area Title
0040	ABILENE, TX
	Callahan County
	Jones County
	Taylor County
0080	AKRON, OH
	Portage County
	Summit County
0120	ALBANY, GA
	Dougherty County
	Lee County
0160	ALBANY-SCHENECTADY-TROY, NY
	Albany County
	Montgomery County
	Rensselaer County
	Saratoga County
	Schenectady County
0200	ALBUQUERQUE, NM
	Bernalillo County
	Sandoval County
0220	ALEXANDRIA, LA
	Grant Parish
	Rapides Parish
0240	ALLENTOWN-BETHLEHEM-EASTON, PA-NJ
	Carbon County, PA
	Lehigh County, PA
	Northampton County, PA
	Warren County, NJ
0280	ALTOONA, PA
	Blair County
0320	AMARILLO, TX
	Potter County
	Randall County
0360	ANAHEIM-SANTA ANA-GARDEN GROVE, CA
	Orange County
0380	ANCHORAGE, AK
	Anchorage Census Division
0400	ANDERSON, IN
	Madison County
0440	ANN ARBOR, MI
	Washtenaw County
0450	ANNISTON, AL
	Calhoun County
0460	APPLETON-OSHKOSH, WI
	Calumet County
	Outagamie County
	Winnebago County
0480	ASHEVILLE, NC
	Buncombe County
	Madison County
0520	ATLANTA, GA
	Butts County
	Cherokee County
	Clayton County
	Cobb County
	De Kalb County
	Douglas County
	Fayette County
	Forsyth County
	Fulton County
	Gwinnett County
	Henry County
	Newton County
	Paulding County
	Rockdale County
	Walton County
0560	ATLANTIC CITY, NJ
	Atlantic County
0600	AUGUSTA, GA-SC
	Columbia County, GA
	Richmond County, GA
	Aiken County, SC
***0640	AUSTIN, TX
	Hays County
	Travis County
	Williamson County
0680	BAKERSFIELD, CA
	Kern County
0720	BALTIMORE, MD
	Baltimore city
	Anne Arundel County
	Baltimore County
	Carroll County
	Harford County
	Howard County
0760	BATON ROUGE, LA
	Ascension Parish
	East Baton Rouge Parish
	Livingston Parish

Area Code	Area Title
0760	BATON ROUGE, LA—Continued
	West Baton Rouge Parish
0780	BATTLE CREEK, MI
	Barry County
	Calhoun County
0800	BAY CITY, MI
	Bay County
0840	BEAUMONT-PORT ARTHUR-ORANGE, TX
	Hardin County
	Jefferson County
	Orange County
0880	BILLINGS, MT
	Yellowstone County
0920	BILOXI-GULFPORT, MS
	Hancock County
	Harrison County
	Stone County
0960	BINGHAMTON, NY-PA
	Broome County, NY
	Tioga County, NY
	Susquehanna County, PA
1000 (See below) 1010	BIRMINGHAM, AL
	Jefferson County
	St. Clair County
	Shelby County
	Walker County
*1020	BLOOMINGTON, IN
	Monroe County
1040	BLOOMINGTON-NORMAL, IL
	McLean County
1080	BOISE CITY, ID
	Ada County
1120	BOSTON, MA
	Essex County (part)
	Beverly city
	Lynn city
	Peabody city
	Salem city
	Boxford town
	Danvers town
	Hamilton town
	Lynnfield town
	Manchester town
	Marblehead town
	Middleton town
	Nahant town
	Saugus town
	Swampscott town
	Topsfield town
	Wenham town
	Middlesex County (part)
	Cambridge city
	Everett city
	Malden city
	Medford city
	Melrose city
	Newton city
	Somerville city
	Waltham city
	Woburn city
	Acton town
	Arlington town
	Ashland town
	Bedford town
	Belmont town
	Boxborough town
	Burlington town
	Carlisle town
	Concord town
	Framingham town
	Holliston town
	Lexington town
	Lincoln town
	Natick town
	North Reading town
	Reading town
	Sherborn town
	Stoneham town
	Sudbury town
	Wakefield town
	Watertown town
	Wayland town
	Weston town
	Wilmington town
	Winchester town
	Norfolk County (part)
	Quincy city
	Bellingham town
	Braintree town
	Brookline town
	Canton town
	Cohasset town
	Dedham town
	Dover town
	Foxborough town
	Franklin town
	Holbrook town
	Medfield town
	Medway town
	Millis town
	Milton town
	Needham town
	Norfolk town
	Norwood town
	Randolph town
	Sharon town
	Stoughton town
	Walpole town
	Wellesley town
	Westwood town
	Weymouth town
	Wrentham town
	Plymouth County (part)
	Abington town
	Duxbury town
	Hanover town
	Hanson town
	Hingham town
	Hull town
	Kingston town
	Marshfield town
	Norwell town
1010	Bismarck, ND
	Burleigh County
	Morton County

Area Code	Area Title
1120	BOSTON, MA—Continued
	Pembroke town
	Rockland town
	Scituate town
	Suffolk County
	Boston city
	Chelsea city
	Revere city
	Winthrop town
*1140	BRADENTON, FL
	Manatee County
1160	BRIDGEPORT, CT
	Fairfield County (part)
	Bridgeport city
	Shelton city
	Easton town
	Fairfield town
	Monroe town
	Stratford town
	Trumbull town
	New Haven County (part)
	Derby city
	Milford city
1170	BRISTOL, CT
	Hartford County (part)
	Bristol city
	Burlington town
	Litchfield County (part)
	Plymouth town
1200	BROCKTON, MA
	Bristol County (part)
	Easton town
	Norfolk County (part)
	Avon town
	Plymouth County (part)
	Brockton city
	Bridgewater town
	East Bridgewater town
	Halifax town
	West Bridgewater town
	Whitman town
1240	BROWNSVILLE-HARLINGEN-SAN BENITO, TX
	Cameron County
1260	BRYAN-COLLEGE STATION, TX
	Brazos County
1280	BUFFALO, NY
	Erie County
	Niagara County
1300	BURLINGTON, NC
	Alamance County
1310	CAGUAS, PR
	Caguas Municipio
	Gurabo Municipio
	San Lorenzo Municipio
1320	CANTON, OH
	Carroll County
	Stark County
1360	CEDAR RAPIDS, IA
	Linn County

Area Code	Area Title
1400	CHAMPAIGN-URBANA-RANTOUL, IL
	Champaign County
**1440	CHARLESTON-NORTH CHARLESTON, SC
	Berkeley County
	Charleston County
	Dorchester County
1480	CHARLESTON, WV
	Kanawha County
	Putnam County
1520	CHARLOTTE-GASTONIA, NC
	Gaston County
	Mecklenburg County
	Union County
1560	CHATTANOOGA, TN-GA
	Hamilton County, TN
	Marion County, TN
	Sequatchie County, TN
	Catoosa County, GA
	Dade County, GA
	Walker County, GA
1600	CHICAGO, IL
	Cook County
	Du Page County
	Kane County
	Lake County
	McHenry County
	Will County
1640	CINCINNATI, OH-KY-IN
	Clermont County, OH
	Hamilton County, OH
	Warren County, OH
	Boone County, KY
	Campbell County, KY
	Kenton County, KY
	Dearborn County, IN
1660	CLARKSVILLE-HOPKINSVILLE, TN-KY
	Montgomery County, TN
	Christian County, KY
1680	CLEVELAND, OH
	Cuyahoga County
	Geauga County
	Lake County
	Medina County
1720	COLORADO SPRINGS, CO
	El Paso County
	Teller County
1740	COLUMBIA, MO
	Boone County
1760	COLUMBIA, SC
	Lexington County
	Richland County
1800	COLUMBUS, GA-AL
	Chattahoochee County, GA
	Columbus (consolidated government), GA
	Russell County, AL
1840	COLUMBUS, OH
	Delaware County
	Fairfield County
	Franklin County
	Madison County
	Pickaway County

Area Code	Area Title
1880	CORPUS CHRISTI, TX
	Nueces County
	San Patricio County
1920	DALLAS-FORT WORTH, TX
	Collin County
	Dallas County
	Denton County
	Ellis County
	Hood County
	Johnson County
	Kaufman County
	Parker County
	Rockwall County
	Tarrant County
	Wise County
1930	DANBURY, CT
	Fairfield County (part)
	Danbury city
	Bethel town
	Brookfield town
	New Fairfield town
	Newtown town
	Redding town
	Litchfield County (part)
	New Milford town
1960	DAVENPORT-ROCK ISLAND-MOLINE, IA-IL
	Scott County, IA
	Henry County, IL
	Rock Island County, IL
2000	DAYTON, OH
	Greene County
	Miami County
	Montgomery County
	Preble County
2020	DAYTONA BEACH, FL
	Volusia, County
2040	DECATUR, IL
	Macon County
2080	DENVER-BOULDER, CO
	Adams County
	Arapahoe County
	Boulder County
	Denver County
	Douglas County
	Gilpin County
	Jefferson County
2120	DES MOINES, IA
	Polk County
	Warren County
2160	DETROIT, MI
	Lapeer County
	Livingston County
	Macomb County
	Oakland County
	St. Clair County
	Wayne County
2200	DUBUQUE, IA
	Dubuque County
2240	DULUTH-SUPERIOR, MN-WI
	St. Louis County, MN
	Douglas County, WI
*2290	EAU CLAIRE, WI
	Eau Claire County
	Chippewa County
2320	EL PASO, TX
(See below) 2330	El Paso County
2335	ELMIRA, NY
	Chemung County
2360	ERIE, PA
	Erie County
2400	EUGENE-SPRINGFIELD, OR
	Lane County
2440	EVANSVILLE, IN-KY
	Gibson County, IN
	Posey County, IN
	Vanderburgh County, IN
	Warrick County, IN
	Henderson County, KY
2480	FALL RIVER, MA-RI
	Bristol County (part), MA
	Fall River City
	Dighton town
	Somerset town
	Swansea town
	Westport town
	Newport County (part), RI
	Little Compton town
	Portsmouth town
	Tiverton town
2520	FARGO-MOORHEAD, ND-MN
	Cass County, ND
	Clay County, MN
2560	FAYETTEVILLE, NC
	Cumberland County
2580	FAYETTEVILLE-SPRINGDALE, AR
	Benton County
	Washington County
2600	FITCHBURG-LEOMINSTER, MA
	Middlesex County (part)
	Shirley town
	Townsend town
	Worcester County (part)
	Fitchburg city
	Leominster city
	Lunenburg town
	Westminster town
2640	FLINT, MI
	Genesee County
	Shiawassee County
2650	FLORENCE, AL
	Colbert County
	Lauderdale County
*2670	FORT COLLINS, CO
	Larimer County
2680	FORT LAUDERDALE-HOLLYWOOD, FL
	Broward County
2700	FORT MYERS, CAPE CORAL, FL
	Lee County
2720	FORT SMITH, AR-OK
	Crawford County, AR
	Sebastian County, AR
	Le Flore County, OK
	Sequoyah County, OK
2330	Elkhart,IN
	Elkhart County

Area Code	Area Title
2760	FORT WAYNE, IN
	Adams County
	Allen County
	De Kalb County
	Wells County
2840	FRESNO, CA
	Fresno County
2880	GADSDEN, AL
	Etowah County
2900	GAINESVILLE, FL
	Alachua County
2920	GALVESTON-TEXAS CITY, TX
	Galveston County
2960	GARY-HAMMOND-EAST CHICAGO, IN
	Lake County
	Porter County
*2985	GRAND FORKS, ND-MN
	Grand Forks County, ND
	Polk County, MN
3000	GRAND RAPIDS, MI
	Kent County
	Ottawa County
3040	GREAT FALLS, MT
	Cascade County
*3060	GREELEY, CO
	Weld County
3080	GREEN BAY, WI
	Brown County
3120	GREENSBORO—WINSTON-SALEM—HIGH POINT, NC
	Davidson County
	Forsyth County
	Guilford County
	Randolph County
	Stokes County
	Yadkin County
3160	GREENVILLE-SPARTANBURG, SC
	Greenville County
	Pickens County
	Spartanburg County
3200	HAMILTON-MIDDLETOWN, OH
	Butler County
3240	HARRISBURG, PA
	Cumberland County
	Dauphin County
	Perry County
3280	HARTFORD, CT
	Hartford County (part)
	Hartford city
	Avon town
	Bloomfield town
	Canton town
	East Granby town
	East Hartford town
	East Windsor town
	Enfield town
	Farmington town
	Glastonbury town
	Granby town
	Manchester town
	Marlborough town
	Newington town
	Rocky Hill town
	Simsbury town
	South Windsor town
	Suffield town
	West Hartford town
	Wethersfield town
	Windsor town
	Windsor Locks town
	Litchfield County (part)
	New Hartford town
	Middlesex County (part)
	Cromwell town
	East Hampton town
	Portland town
	New London County (part)
	Colchester town
	Tolland County (part)
	Andover town
	Bolton town
	Columbia town
	Coventry town
	Ellington town
	Hebron town
	Stafford town
	Tolland town
	Vernon town
	Willington town
3320	HONOLULU, HI
	Honolulu County
3360	HOUSTON, TX
	Brazoria County
	Fort Bend County
	Harris County
	Liberty County
	Montgomery County
	Waller County
3400	HUNTINGTON-ASHLAND, WV-KY-OH
	Cabell County, WV
	Wayne County, WV
	Boyd County, KY
	Greenup County, KY
	Lawrence County, OH
3440	HUNTSVILLE, AL
	Limestone County
	Madison County
	Marshall County
3480	INDIANAPOLIS, IN
	Boone County
	Hamilton County
	Hancock County
	Hendricks County
	Johnson County
	Marion County
	Morgan County
	Shelby County
3520	JACKSON, MI
	Jackson County
3560	JACKSON, MS
	Hinds County
	Rankin County

Area Code	Area Title
3600	JACKSONVILLE, FL
	Baker County
	Clay County
	Duval County
	Nassau County
	St. Johns County
(See below) 3620	
3640	JERSEY CITY, NJ
	Hudson County
*3660	JOHNSON CITY-KINGSPORT-BRISTOL, TN-VA
	Carter County, TN
	Hawkins County, TN
	Sullivan County, TN
	Unicoi County, TN
	Washington County, TN
	Bristol city, VA
	Scott County, VA
	Washington County, VA
3680	JOHNSTOWN, PA
	Cambria County
	Somerset County
3720	KALAMAZOO-PORTAGE, MI
	Kalamazoo County
	Van Buren County
*3740	KANKAKEE, IL
	Kankakee County
3760	KANSAS CITY, MO-KS
	Cass County, MO
	Clay County, MO
	Jackson County, MO
	Platte County, MO
	Ray County, MO
	Johnson County, KS
	Wyandotte County, KS
3800	KENOSHA, WI
	Kenosha County
3810	KILLEEN-TEMPLE, TX
	Bell County
	Coryell County
3840	KNOXVILLE, TN
	Anderson County
	Blount County
	Knox County
	Union County
*3850	KOKOMO, IN
	Howard County
	Tipton County
3870	LA CROSSE, WI
	La Crosse County
3880	LAFAYETTE, LA
	Lafayette Parish
3920	LAFAYETTE-WEST LAFAYETTE, IN
	Tippecanoe County
3960	LAKE CHARLES, LA
	Calcasieu Parish
3980	LAKELAND-WINTER HAVEN, FL
	Polk County
4000	LANCASTER, PA
	Lancaster County
4040	LANSING-EAST LANSING, MI
	Clinton County
3620	JANESVILLE-BELOIT, WI
	Rock County
	Eaton County
	Ingham County
	Ionia County
4080	LAREDO, TX
	Webb County
4120	LAS VEGAS, NV
	Clark County
*4150	LAWRENCE, KS
	Douglas County
4160	LAWRENCE-HAVERHILL, MA-NH
	Essex County (part), MA
	Lawrence city
	Haverhill city
	Amesbury town
	Andover town
	Georgetown town
	Groveland town
	Merrimac town
	Methuen town
	North Andover town
	Salisbury town
	West Newbury town
	Rockingham County (part), NH
	Atkinson town
	Hampstead town
	Kingston town
	Newton town
	Plaistow town
	Salem town
	Windham town
4200	LAWTON, OK
	Comanche County
4240	LEWISTON-AUBURN, ME
	Androscoggin County (part)
	Auburn city
	Lewiston city
	Lisbon town
4280	LEXINGTON-FAYETTE, KY
	Bourbon County
	Clark County
	Fayette County
	Jessamine County
	Scott County
	Woodford County
4320	LIMA, OH
	Allen County
	Auglaize County
	Putnam County
	Van Wert County
4360	LINCOLN, NE
	Lancaster County
4400	LITTLE ROCK-NORTH LITTLE ROCK, AR
	Pulaski County
	Saline County
4410	LONG BRANCH-ASBURY PARK, NJ
	Monmouth County
*4420	LONGVIEW-MARSHALL, TX
	Gregg County
	Harrison County
4440	LORAIN-ELYRIA, OH
	Lorain County

Area Code	Area Title
4480	LOS ANGELES-LONG BEACH, CA
	Los Angeles County
4520	LOUISVILLE, KY-IN
	Bullitt County, KY
	Jefferson County, KY
	Oldham County, KY
	Clark County, IN
	Floyd County, IN
4560	LOWELL, MA-NH
	Middlesex County (part), MA
	Lowell city
	Billerica town
	Chelmsford town
	Dracut town
	Tewksbury town
	Tyngsborough town
	Westford town
	Hillsborough County (part), NH
	Pelham town
4600	LUBBOCK, TX
	Lubbock County
4640	LYNCHBURG, VA
	Lynchburg city
	Amherst County
	Appomattox County
	Campbell County
4680	MACON, GA
	Bibb County
	Houston County
	Jones County
	Twiggs County
4720	MADISON, WI
	Dane County
4760	MANCHESTER, NH
	Hillsborough County (part)
	Manchester city
	Bedford town
	Goffstown town
	Merrimack County (part)
	Allenstown town
	Hooksett town
	Pembroke town
	Rockingham County (part)
	Derry town
	Londonderry town
4800	MANSFIELD, OH
	Richland County
4840	MAYAGUEZ, PR
	Anasco Municipio
	Hormigueros Municipio
	Mayaguez Municipio
4880	McALLEN-PHARR-EDINBURG, TX
	Hidalgo County
4900	MELBOURNE-TITUSVILLE-COCOA, FL
	Brevard County
4920	MEMPHIS, TN-AR-MS
	Shelby County, TN
	Tipton County, TN
	Crittenden County, AR
	De Soto County, MS
4960	MERIDEN, CT
	New Haven County (part)
	Meriden city
5000	MIAMI, FL
	Dade County
5040	MIDLAND, TX
	Midland County
5080	MILWAUKEE, WI
	Milwaukee County
	Ozaukee County
	Washington County
	Waukesha County
5120	MINNEAPOLIS-ST. PAUL, MN-WI
	Anoka County, MN
	Carver County, MN
	Chisago County, MN
	Dakota County, MN
	Hennepin County, MN
	Ramsey County, MN
	Scott County, MN
	Washington County, MN
	Wright County, MN
	St. Croix County, WI
5160	MOBILE, AL
	Baldwin County
	Mobile County
5170	MODESTO, CA
	Stanislaus County
5200	MONROE, LA
	Ouachita Parish
5240	MONTGOMERY, AL
	Autauga County
	Elmore County
	Montgomery County
5280	MUNCIE, IN
	Delaware County
** 5320	MUSKEGON-NORTON SHORES-MUSKEGON HEIGHTS, MI
	Muskegon County
	Oceana County
5350	NASHUA, NH
	Hillsborough County (part)
	Nashua city
	Amherst town
	Hudson town
	Merrimack town
	Milford town
5360	NASHVILLE-DAVIDSON, TN
	Cheatham County
	Davidson County
	Dickson County
	Robertson County
	Rutherford County
	Sumner County
	Williamson County
	Wilson County
5380	NASSAU-SUFFOLK, NY
	Nassau County
	Suffolk County
5400	NEW BEDFORD, MA
	Bristol County (part)
	New Bedford city

Area Code	Area Title
5400	NEW BEDFORD, MA—Continued
	Acushnet town
	Dartmouth town
	Fairhaven town
	Freetown town
	Plymouth County (part)
	Lakeville town
	Marion town
	Mattapoisett town
5440	NEW BRITAIN, CT
	Hartford County (part)
	New Britain city
	Berlin town
	Plainville town
	Southington town
5460	NEW BRUNSWICK-PERTH AMBOY-SAYREVILLE, NJ
	Middlesex County
***5480	NEW HAVEN-WEST HAVEN, CT
	Middlesex County (part)
	Clinton town
	New Haven County (part)
	New Haven city
	West Haven city
	Bethany town
	Branford town
	East Haven town
	Guilford town
	Hamden town
	Madison town
	North Branford town
	North Haven town
	Orange town
	Wallingford town
	Woodbridge town
5520	NEW LONDON-NORWICH, CT-RI
	Middlesex County (part), CT
	Old Saybrook town
	New London County (part), CT
	New London city
	Norwich city
	Bozrah town
	East Lyme town
	Griswold town
	Groton town
	Ledyard town
	Lisbon town
	Montville town
	Old Lyme town
	Preston town
	Sprague town
	Stonington town
	Waterford town
	Washington County (part), RI
	Hopkinton town
	Westerly town
5560	NEW ORLEANS, LA
	Jefferson Parish
	Orleans Parish
	St. Bernard Parish
	St. Tammany Parish
5600	NEW YORK, NY-NJ
	Bronx County, NY
	Kings County, NY
	New York County, NY
	Putnam County, NY
	Queens County, NY
	Richmond County, NY
	Rockland County, NY
	Westchester County, NY
	Bergen County, NJ
5640	NEWARK, NJ
	Essex County
	Morris County
	Somerset County
	Union County
***5680	NEWPORT NEWS-HAMPTON, VA
	Hampton city
	Newport News city
	Poquoson city
	Williamsburg city
	Gloucester County
	James City County
	York County
***5720	NORFOLK-VIRGINIA BEACH-PORTSMOUTH, VA-NC
	Chesapeake city, VA
	Norfolk city, VA
	Portsmouth city, VA
	Suffolk city, VA (including the former Nansemond city)
	Virginia Beach city, VA
	Currituck County, NC
5745	NORTHEAST PENNSYLVANIA
	Lackawanna County
	Luzerne County
	Monroe County
5760	NORWALK, CT
	Fairfield County (part)
	Norwalk city
	Weston town
	Westport town
	Wilton town
5800	ODESSA, TX
	Ector County
5880	OKLAHOMA CITY, OK
	Canadian County
	Cleveland County
	McClain County
	Oklahoma County
	Pottawatomie County
5920	OMAHA, NE-IA
	Douglas County, NE
	Sarpy County, NE
	Pottawattamie County, IA
5960	ORLANDO, FL
	Orange County
	Osceola County
	Seminole County
5990	OWENSBORO, KY
	Daviess County
6000	OXNARD-SIMI VALLEY-VENTURA, CA
	Ventura County

Area Code	Area Title
*6015	PANAMA CITY, FL
	Bay County
6020	PARKERSBURG-MARIETTA, WV-OH
	Wirt County, WV
	Wood County, WV
	Washington County, OH
*6025	PASCAGOULA-MOSS POINT, MS
	Jackson County
6040	PATERSON-CLIFTON-PASSAIC, NJ
	Passaic County
6080	PENSACOLA, FL
	Escambia County
	Santa Rosa County
6120	PEORIA, IL
	Peoria County
	Tazewell County
	Woodford County
6140	PETERSBURG-COLONIAL HEIGHTS-HOPEWELL, VA
	Colonial Heights city
	Hopewell city
	Petersburg city
	Dinwiddie County
	Prince George County
6160	PHILADELPHIA, PA-NJ
	Bucks County, PA
	Chester County, PA
	Delaware County, PA
	Montgomery County, PA
	Philadelphia County, PA
	Burlington County, NJ
	Camden County, NJ
	Gloucester County, NJ
6200	PHOENIX, AZ
	Maricopa, County
6240	PINE BLUFF, AR
	Jefferson County
6280	PITTSBURGH, PA
	Allegheny County
	Beaver County
	Washington County
	Westmoreland County
6320	PITTSFIELD, MA
	Berkshire County (part)
	Pittsfield city
	Adams town
	Cheshire town
	Dalton town
	Lanesborough town
	Lee town
	Lenox town
	Stockbridge town
6360	PONCE, PR
	Juana Diaz Municipio
	Ponce Municipio
	Villalba Municipio
6400	PORTLAND, ME
	Cumberland County (part)
	Portland city
	South Portland city
	Westbrook city
	Cape Elizabeth town
	Cumberland town
	Falmouth town
	Freeport town
	Gorham town
	Scarborough town
	Windham town
	Yarmouth town
	York County (part)
	Saco city
	Old Orchard Beach town
6440	PORTLAND, OR-WA
	Clackamas County, OR
	Multnomah County, OR
	Washington County, OR
	Clark County, WA
6460	POUGHKEEPSIE, NY
	Dutchess County
6480	PROVIDENCE-WARWICK-PAWTUCKET, RI-MA
	Bristol County, RI
	Barrington town
	Bristol town
	Warren town
	Kent County (part), RI
	Warwick city
	Coventry town
	East Greenwich town
	West Warwick town
	Newport County (part), RI
	Jamestown town
	Providence County (part), RI
	Central Falls city
	Cranston city
	East Providence city
	Pawtucket city
	Providence city
	Woonsocket city
	Burrillville town
	Cumberland town
	Johnston town
	Lincoln town
	North Providence town
	North Smithfield town
	Scituate town
	Smithfield town
	Washington County (part), RI
	Narragansett town
	North Kingston town
	South Kingston town
	Bristol County (part), MA
	Attleboro city
	North Attleborough town
	Norton town
	Rehoboth town
	Seekonk town
	Norfolk County (part), MA
	Plainville town
	Worcester County (part), MA
	Blackstone town
	Millville town

Area Code	Area Title
6520	PROVO-OREM, UT
	Utah County
6560	PUEBLO, CO
	Pueblo County
6600	RACINE, WI
	Racine County
6640	RALEIGH-DURHAM, NC
	Durham County
	Orange County
	Wake County
(See Below) 6660 6680	READING, PA
	Berks County
6720	RENO, NV
	Washoe County
6740	RICHLAND-KENNEWICK-PASCO, WA
	Benton County
	Franklin County
6760	RICHMOND, VA
	Richmond city
	Charles City County
	Chesterfield County
	Goochland County
	Hanover County
	Henrico County
	New Kent County
	Powhatan County
6780	RIVERSIDE-SAN BERNARDINO-ONTARIO, CA
	Riverside County
	San Bernardino County
6800	ROANOKE, VA
	Roanoke city
	Salem city
	Botetourt County
	Craig County
	Roanoke County
6820	ROCHESTER, MN
	Olmsted County
6840	ROCHESTER, NY
	Livingston County
	Monroe County
	Ontario County
	Orleans County
	Wayne County
6880	ROCKFORD, IL
	Boone County
	Winnebago County
6920	SACRAMENTO, CA
	Placer County
	Sacramento County
	Yolo County
6960	SAGINAW, MI
	Saginaw County
6980	ST. CLOUD, MN
	Benton County
	Sherburne County
	Stearns County
7000	ST. JOSEPH, MO
	Andrew County
	Buchanan County
7040	ST. LOUIS, MO-IL
	St. Louis city, MO
	Franklin County, MO
	Jefferson County, MO
	St. Charles County, MO
	St. Louis County, MO
	Clinton County, IL
	Madison County, IL
	Monroe County, IL
	St. Clair County, IL
7080	SALEM, OR
	Marion County
	Polk County
7120	SALINAS-SEASIDE-MONTEREY, CA
	Monterey County
7160	SALT LAKE CITY-OGDEN, UT
	Davis County
	Salt Lake County
	Tooele County
	Weber County
7200	SAN ANGELO, TX
	Tom Green County
7240	SAN ANTONIO, TX
	Bexar County
	Comal County
	Guadalupe County
7320	SAN DIEGO, CA
	San Diego County
7360	SAN FRANCISCO-OAKLAND, CA
	Alameda County
	Contra Costa County
	Marin County
	San Francisco County
	San Mateo County
7400	SAN JOSE, CA
	Santa Clara County
7440	SAN JUAN, PR
	Bayamon Municipio
	Canovanas Municipio
	Carolina Municipio
	Catano Municipio
	Guaynabo Municipio
	Loiza Municipio
	San Juan Municipio
	Toa Baja Municipio
	Trujillo Alto Municipio
7480	SANTA BARBARA-SANTA MARIA-LOMPOC, CA
	Santa Barbara County
7485	SANTA CRUZ, CA
	Santa Cruz County
7500	SANTA ROSA, CA
	Sonoma County
7510	SARASOTA, FL
	Sarasota County
7520	SAVANNAH, GA
	Bryan County
	Chatham County
	Effingham County
7600	SEATTLE-EVERETT, WA
	King County
	Snohomish County

6660 RAPID CITY, SD
Pennington County
Meade County

Area Code	Area Title
7640	SHERMAN-DENISON, TX
	Grayson County
7680	SHREVEPORT, LA
	Bossier Parish
	Caddo Parish
	Webster Parish
7720	SIOUX CITY, IA-NE
	Woodbury County, IA
	Dakota County, NE
7760	SIOUX FALLS, SD
	Minnehaha County
7800	SOUTH BEND, IN
	Marshall County
	St. Joseph County
7840	SPOKANE, WA
	Spokane County
7880	SPRINGFIELD, IL
	Menard County
	Sangamon County
7920	SPRINGFIELD, MO
	Christian County
	Greene County
7960	SPRINGFIELD, OH
	Champaign County
	Clark County
8000	SPRINGFIELD-CHICOPEE-HOLYOKE, MA-CT
	Hampden County (part), MA
	Chicopee city
	Holyoke city
	Springfield city
	Westfield city
	Agawam town
	East Longmeadow town
	Hampden town
	Longmeadow town
	Ludlow town
	Monson town
	Palmer town
	Southwick town
	West Springfield town
	Wilbraham town
	Hampshire County (part), MA
	Northampton city
	Belchertown town
	Easthampton town
	Granby town
	Hadley town
	Hatfield town
	South Hadley town
	Southampton town
	Worcester County (part), MA
	Warren town
	Tolland County (part), CT
	Somers town
8040	STAMFORD, CT
	Fairfield County (part)
	Stamford city
	Darien town
	Greenwich town
	New Canaan town
8080	STEUBENVILLE-WEIRTON, OH-WV
	Jefferson County, OH
	Brooke County, WV
	Hancock County, WV
8120	STOCKTON, CA
	San Joaquin County
8160	SYRACUSE, NY
	Madison County
	Onondaga County
	Oswego County
8200	TACOMA, WA
	Pierce County
8240	TALLAHASSEE, FL
	Leon County
	Wakulla County
8280	TAMPA-ST. PETERSBURG, FL
	Hillsborough County
	Pasco County
	Pinellas County
8320	TERRE HAUTE, IN
	Clay County
	Sullivan County
	Vermillion County
	Vigo County
8360	TEXARKANA, TX-TEXARKANA, AR
	Bowie County, TX
	Little River County, AR
	Miller County, AR
8400	TOLEDO, OH-MI
	Fulton County, OH
	Lucas County, OH
	Ottawa County, OH
	Wood County, OH
	Monroe County, MI
8440	TOPEKA, KS
	Jefferson County
	Osage County
	Shawnee County
8480	TRENTON, NJ
	Mercer County
8520	TUCSON, AZ
	Pima County
8560	TULSA, OK
	Creek County
	Mayes County
	Osage County
	Rogers County
	Tulsa County
	Wagoner County
8600	TUSCALOOSA, AL
	Tuscaloosa County
8640	TYLER, TX
	Smith County
8680	UTICA-ROME, NY
	Herkimer County
	Oneida County
8720	VALLEJO-FAIRFIELD-NAPA, CA
	Napa County
	Solano County
8760	VINELAND-MILLVILLE-BRIDGETON, NJ
	Cumberland County

Area Code	Area Title
8800	WACO, TX
	McLennan County
***8840	WASHINGTON, DC-MD-VA
	District of Columbia
	Charles County, MD
	Montgomery County, MD
	Prince Georges County, MD
	Alexandria city, VA
	Fairfax city, VA
	Falls Church city, VA
	Manassas city
	Manassas Park city
	Arlington County, VA
	Fairfax County, VA
	Loudoun County, VA
	Prince William County, VA
8880	WATERBURY, CT
	Litchfield County (part)
	Thomaston town
	Watertown town
	Woodbury town
	New Haven County (part)
	Waterbury city
	Naugatuck borough
	Beacon Falls town
	Cheshire town
	Middlebury town
	Prospect town
	Southbury town
	Wolcott town
8920	WATERLOO-CEDAR FALLS, IA
	Black Hawk County
8960	WEST PALM BEACH-BOCA RATON, FL
	Palm Beach County
9000	WHEELING, WV-OH
	Marshall County, WV
	Ohio County, WV
	Belmont County, OH
9040	WICHITA, KS
	Butler County
	Sedgwick County
9080	WICHITA FALLS, TX
	Clay County
	Wichita County
9140	WILLIAMSPORT, PA
	Lycoming County
9160	WILMINGTON, DE-NJ-MD
	New Castle County, DE
	Salem County, NJ
	Cecil County, MD
9200	WILMINGTON, NC
	Brunswick County
	New Hanover County
9240	WORCESTER, MA
	Worcester County (part)
	Worcester city
	Auburn town
	Berlin town
	Boylston town
	Brookfield town
	Charlton town
	East Brookfield town
	Grafton town
	Holden town
	Leicester town
	Millbury town
	Northborough town
	Northbridge town
	North Brookfield town
	Oxford town
	Paxton town
	Shrewsbury town
	Spencer town
	Sterling town
	Sutton town
	Upton town
	Uxbridge town
	Webster town
	Westborough town
	West Boylston town
9260	YAKIMA, WA
	Yakima County
9280	YORK, PA
	Adams County
	York County
9320	YOUNGSTOWN-WARREN, OH
	Mahoning County
	Trumbull County

STANDARD CONSOLIDATED STATISTICAL AREAS

The following is a list of the standard consolidated statistical areas and their constituent SMSA's:

Title	Code SCSA	Code SMSA	Definition
Boston-Lawrence Lowell, MA-NH	07	1120	Boston, MA
		1200	Brockton, MA
		4160	Lawrence-Haverhill, MA-NH
		4560	Lowell, MA-NH
Chicago-Gary, IL-IN	14	1600	Chicago, IL
		2960	Gary-Hammond-East Chicago, IN
Cincinnati-Hamilton, OH-KY-IN	21	1640	Cincinnati, OH-KY-IN
		3200	Hamilton-Middletown, OH
Cleveland-Akron-Lorain, OH	28	1680	Cleveland, OH
		0080	Akron, OH
		4440	Lorain-Elyria, OH
Detroit-Ann Arbor, MI	35	2160	Detroit, MI
		0440	Ann Arbor, MI
Houston-Galveston, TX	42	3360	Houston, TX
		2920	Galveston-Texas City, TX
Los Angeles-Long Beach-Anaheim, CA	49	4480	Los Angeles-Long Beach, CA
		0360	Anaheim-Santa Ana-Garden Grove, CA
		6000	Oxnard-Simi Valley-Ventura, CA
		6780	Riverside-San Bernardino-Ontario, CA
Miami-Fort Lauderdale, FL	56	5000	Miami, FL
		2680	Fort Lauderdale-Hollywood, FL
Milwaukee-Racine, WI	63	5080	Milwaukee, WI
		6600	Racine, WI
New York-Newark-Jersey City, NY-NJ-CT	70	5600	New York, NY-NJ
		5380	Nassau-Suffolk, NY
		5640	Newark, NJ
		3640	Jersey City, NJ
		5460	New Brunswick-Perth Amboy-Sayreville, NJ
		6040	Paterson-Clifton-Passaic, NJ
		4410	Long Branch-Asbury Park, NJ
		8040	Stamford, CT
		5760	Norwalk, CT
Philadelphia-Wilmington-Trenton, PA-DE-NJ-MD	77	6160	Philadelphia, PA-NJ
		8480	Trenton, NJ
		9160	Wilmington, DE-NJ-MD
San Francisco-Oakland San Jose, CA	84	7360	San Francisco-Oakland, CA
		7400	San Jose, CA
		8720	Vallejo-Fairfield-Napa, CA
Seattle-Tacoma, WA	91	7600	Seattle-Everett, WA
		8200	Tacoma, WA

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REQUESTING AGENCIES

CODES	REQUESTING AGENCIES
01	AID
02	USDA
03	AEC
04	Commerce
05	DoD
06	GSA
07	HEW
08	HUD
09	Interior
10	NASA
11	POD
12	DoT
13	Treasury
14	TVA
15	VA
16	EPA
17	Justice
18	OEO
19	SBA
20	OFCCP

STANDARD COMPLIANCE REVIEW REPORT – PART A

FIC | SUB FIC

1 CONTROL NUMBER | 2 DUNS ID *(FIC 01 ONLY)* BLANK ALL OTHER FICS | 3. RECORD TYPE A | 4. ACTION CODE | 5. CAO

01
1 6a. CONTRACTOR FACILITY NAME
2 ATTN
3 STREET
4 CITY STATE ZIP CODE
5 6b. CHECK APPROPRIATE BOX 0 ☐ SINGLE FACILITY 1 ☐ MULTIPLE FACILITY | 6c. PREVIOUS NAME OF CONTRACTOR | 6d. CON ID

02
1 7a. PARENT ORGANIZATION NAME
2 ATTN
3 STREET
4 CITY | STATE | ZIP CODE | 7b. PARENT DUNS ID | 8 SIC | 9 SMSA | 10 LAST ON SITE YR MO DA | 11. ORG ID

03
1 12. PREVIOUS CONTROL NO | 13 FIC COUNT | 14. EEO-1 NO | 15 YEAR | 16. PARENT EEO-1 NO | 17 EOS | 18 TRNS TYPE | 19. AAP UPDATE DUE YEAR MONTH DAY

20 TYPE REVIEW | 21 COMP STATUS | 22 REV AGCY | 23. DATE AAP RECEIVED YEAR MONTH DAY

2 24 PREAWARD OVER $1 MILLION ☐ YES ☐ NO | 25 REQUESTING AGENCY | 26 DATE LAST REVIEW YEAR MONTH DAY | 27 TYPE LAST REVIEW | 28 DATE CONCILIATION STARTED YEAR MONTH DAY

29 SHOW CAUSE ISSUED YEAR MONTH DAY | 30 PROGRESS REPORT REQUESTED ☐ YES ☐ NO | 31 FREQUENCY REPORT REQUESTED 1 ☐ MONTHLY 2 ☐ QUARTERLY 3 ☐ SEMI-ANNUALLY | 32 DATE NEXT REVIEW YEAR MONTH DAY

3

33 TABLE OF DEFICIENCIES	"✓" APPROPRIATE COLUMNS			
	DEFICIENCY		RESOLVED	
	YES	NO	YES	NO
a. EEO Policies, Procedures and Practices				
b. Work Force Composition				
c. Hiring and Terminations				
d. Affected Class				
e. Record-keeping/Support Data				
f. Recruitment Method and Resources				
g. Selection and Placement				
h. Testing				
i. Job Security, Benefits, Disciplinary Actions				
j. Wage and Salary Analysis				
k. Promotions and Transfers				
l. Training and Evaluation				
m. Goals and Timetables				
n. Sex Discrimination				
o. Religious or National Origin Discrimination				

34 REMARKS – Does the contractor have 402/503 AAP? ☐ Yes ☐ No
Is there an OFCCP complaint filed against this contractor? ☐ Yes ☐ No

4
35 HOURS EXPENDED → | a. OFFSITE | b. ON-SITE | c. REPORT WRITING | d. TRAVEL | e. COMMUNITY CONTACT | f. CONCILIATION | g. DESK AUDIT

SIGNATURE OF EOS | 36 DATE REVIEW COMPLETED YR MO DA | SIGNATURE OF APPROVING OFFICIAL | 37 APPROVING OFFICIAL CODE

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION

PAGE 1

CC-50 (May 1978)

JOB CATEGORIES	TOTAL	FIC	SUB FIC	IF NOT APPLICABLE, ENTER "N"	STANDARD COMPLIANCE REVIEW REPORT – PART A									
					PERSONNEL ACTIVITY TABLE									
					ALL EMPLOYEES		MINORITY EMPLOYEES							
							MALE				FEMALE			
					MALE	FEMALE	BLACK	ASIAN/ PACIFIC ISLANDER	AMER. INDIAN	HISPANIC	BLACK	ASIAN/ PACIFIC ISLANDER	AMER. INDIAN	HISPANIC
				✓	a	b	c	d	e	f	g	h	i	j
38. OFFICIALS & MGRS New Hires		04	1											
Terminations			2											
Promotions			3											
39. PROFESSIONALS New Hires		05	1											
Terminations			2											
Promotions			3											
40. TECHNICIANS New Hires		06	1											
Terminations			2											
Promotions			3											
41. SALES WORKERS New Hires		07	1											
Terminations			2											
Promotions			3											
42. OFFICE & CLERICAL New Hires		08	1											
Terminations			2											
Promotions			3											
43. CRAFTSMEN New Hires		09	1											
Terminations			2											
Promotions			3											
44. OPERATIVES New Hires		10	1											
Terminations			2											
Promotions			3											
45. LABORERS New Hires		11	1											
Terminations			2											
Promotions			3											
46. SERVICE WORKERS New Hires		12	1											
Terminations			2											
Promotions			3											
TOTAL New Hires														
Terminations														
Promotions														

JOB CATEGORIES	TOTAL	FIC	SUB FIC		"✓" IF NOT APPLICABLE ENTER "N"	DATE (Year)	WORK FORCE ANALYSIS									
							ALL EMPLOYEES		MINORITY EMPLOYEES							
									MALE				FEMALE			
							MALE	FEMALE	BLACK	ASIAN/ PACIFIC ISLANDER	AMER. INDIAN	HISPANIC	BLACK	ASIAN/ PACIFIC ISLANDER	AMER. INDIAN	HISPANIC
47 OFFICIALS AND MANAGERS		13	1	a												
			2	b												
			3	c												
		14	1	d												
			2	e												
			3	f												
48 PROFESSIONALS		15	1	a												
			2	b												
			3	c												
		16	1	d												
			2	e												
			3	f												
49 TECHNICIANS		17	1	a												
			2	b												
			3	c												
		18	1	d												
			2	e												
			3	f												
50 SALES WORKERS		19	1	a												
			2	b												
			3	c												
		20	1	d												
			2	e												
			3	f												
51 OFFICE AND CLERICAL		21	1	a												
			2	b												
			3	c												
		22	1	d												
			2	e												
			3	f												
52 CRAFTSMEN *(Skilled)*		23	1	a												
			2	b												
			3	c												
		24	1	d												
			2	e												
			3	f												
53 OPERATIVES *(Semi-Skilled)*		25	1	a												
			2	b												
			3	c												
		26	1	d												
			2	e												
			3	f												
54 LABORERS *(Unskilled)*		27	1	a												
			2	b												
			3	c												
		28	1	d												
			2	e												
			3	f												
55 SERVICE WORKERS		29	1	a												
			2	b												
			3	c												
		30	1	d												
			2	e												
			3	f												

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION

CC-50 (May 1978)

PERSONNEL ACTIVITY TABLE

JOB CATEGORIES			ALL EMPLOYEES			MINORITY EMPLOYEES							
						MALE				FEMALE			
			TOTAL (Male & Female)	MALE	FEMALE	BLACK	ASIAN/ PACIFIC ISLANDER	AMERICAN INDIAN OR ALASKAN NATIVE	HISPANIC	BLACK	ASIAN/ PACIFIC ISLANDER	AMERICAN INDIAN OR ALASKAN NATIVE	HISPANIC
OFFICIALS & MANAGERS	Applicants												
	Offers												
	Transfers												
	Trainees												
	Layoffs												
	Recalls												
PROFESSIONALS	Applicants												
	Offers												
	Transfers												
	Trainees												
	Layoffs												
	Recalls												
TECHNICIANS	Applicants												
	Offers												
	Transfers												
	Trainees												
	Layoffs												
	Recalls												
SALES WORKERS	Applicants												
	Offers												
	Transfers												
	Trainees												
	Layoffs												
	Recalls												
OFFICE & CLERICAL	Applicants												
	Offers												
	Transfers												
	Trainees												
	Layoffs												
	Recalls												
CRAFTSMEN	Applicants												
	Offers												
	Transfers												
	Trainees												
	Layoffs												
	Recalls												
OPERATIVES	Applicants												
	Offers												
	Transfers												
	Trainees												
	Layoffs												
	Recalls												
LABORERS	Applicants												
	Offers												
	Transfers												
	Trainees												
	Layoffs												
	Recalls												
SERVICE WORKERS	Applicants												
	Offers												
	Transfers												
	Trainees												
	Layoffs												
	Recalls												

U. S. DEPARTMENT OF LABOR
Employment Standards Administration

Form CC-50
Oct. 1978

STANDARD COMPLIANCE REVIEW REPORT - PART B

1. OFFICIALS AND COORDINATORS

TITLE		NAME	OFFICE PHONE(Include AC)
a. FACILITY			
b. CORPORATE			

2. ANALYSIS OF EEO. 1 EMPLOYMENT PATTERNS

a.	If Not Appli-cable	WORK FORCE ANALYSIS TOTALS										
		ALL EMPLOYEES			MINORITY EMPLOYEES							
					MALE				FEMALE			
YEAR	"✓"	TOTAL (Male & Female)	MALE	FEMALE	BLACK	HISPANIC	ASIAN/ PACIFIC ISLANDER	AMER. INDIAN	BLACK	HISPANIC	ASIAN/ PACIFIC ISLANDER	AMER. INDIAN

b. CONTRACTOR'S WORK FORCE (Based on analysis of data shown above)

☐ EXPANDING
☐ CONTRACTING
☐ NO CHANGE

Relative changes which have occurred in minority/female representation:

c. IDENTITY CATEGORIES WHICH APPEAR TO BE:

(1) Areas of current and/or persistent under utilization of minorities/women (if any)

(2) Areas of current and/or persistent concentration of minorities/women (if any)

d. SIGNIFICANT IMBALANCE IN REPRESENTATION OF A PARTICULAR MINORITY GROUP, OR OF MALE/FEMALE OF A PARTICULAR MINORITY GROUP (If any)

3. INTRODUCTORY STATEMENT

RESULTS OF PREVIOUS AFFIRMATIVE ACTION PLAN									
UNDERUTILIZED AREAS (job groups, job titles, and/or departments) AT INCEPTION OF AAP WHERE NEW HIRES AND/OR PROMOTIONS OCCURRED.	NUMBER OF ACTUAL	% PLACEMENT GOAL (AHR)		NO. REQUIRED BASED ON NO. OF ACTUAL OPPORTUNITIES		ACTUAL PLACEMENT		DIFFERENCE + OR -	
(List areas) (a)	OPPORTUNITIES (b)	Min. (c)	Women (d)	Min. (e)	Women (f)	Min. (g)	Women (h)	Min. (g-e) (i)	Women (h-f) (j)

U. S. DEPARTMENT OF LABOR
Employment Standards Administration

Form CC-50

PROGRESS UNDER CURRENT PROGRAM.

UNDERUTILIZED AREAS *(job groups, job titles, and/or departments)* AT INCEPTION OF AAP WHERE NEW HIRES AND/OR PROMOTIONS OCCURRED. *(List areas)*	If underutilized, show code to indicate the minority group					ANNUAL GOALS *(Show group if for specific minority)*						PRO-JECTED OPEN-INGS	ACTUAL HIRES			ACTUAL PROMOTIONS			PRESENT MINORITY WORK FORCE		
		Also, if particular group show appropriate code				MINORITY			WOMEN												
	GROUP	GROUP	TOTAL	MINORITY	WOMEN	NO PERSONS	GROUP	PERCENT	NO PERSONS	GROUP	PERCENT		TOTAL	MINORITY	WOMEN	TOTAL	MINORITY	WOMEN	TOTAL	MINORITY	WOMEN
(a)	*(b)*	*(c)*	*(d)*	*(e)*	*(f)*	*(g)*	*(h)*	*(i)*	*(j)*	*(k)*	*(l)*	*(m)*	*(n)*	*(o)*	*(p)*	*(q)*	*(r)*	*(s)*	*(t)*	*(u)*	*(v)*

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION

FORM CC 50 (OCT 78)

ANALYSIS OF PREVIOUS AFFIRMATIVE ACTION PLAN AND PROGRESS UNDER CURRENT PLAN

1. DISCUSS THE FOLLOWING AND GIVE YOUR ANALYSIS:

a. Net change in under utilized areas for the previous AAP year.

b. Current progress in identified under-utilized areas.

c. Use of opportunities to meet goals and/or to progress in areas where unexpected openings occurred.

d. Past review summary, AAP and/or letter of agreement.

U. S. DEPARTMENT OF LABOR Employment Standards Administration Office of Federal Contract Compliance Programs	STATUS OF CONTRACTOR ATTAINMENT OF NARRATIVE COMMITMENTS IN AAP, CONCILIATION AGREEMENT, OR LETTER OF COMMITMENT

Identify each significant narrative commitment in the contractor's AAP and/or conciliation agreement or letter of commitment. Where there is a letter of commitment or conciliation agreement, a copy should be attached to the SCRR and the item number need only be reference under "Committed Action" below.

COMMITTED ACTION	INDICATE WHAT THE CONTRACTOR HAS DONE TO CORRECT THESE PROBLEMS SINCE THE LAST REVIEW, TO THE DEGREE IT CAN BE ESTABLISHED FROM THE DESK AUDIT MATERIAL

U. S. DEPARTMENT OF LABOR
Employment Standards Administration
Office of Federal Contract Compliance Programs

IDENTIFICATION OF POTENTIAL AFFECTED CLASSES

Key the job areas shown below to the sector of the contractor's workforce to which they are being compared in this fashion:
WF = Whole Workforce; WC = White Collar; BC = Blue Collar; O = Other (explain)

List those job areas in which minorities or women are concentrated or relatively underrepresented	Key	JAAR	Under Representation "✓" Column		Concentration "✓" Column		Pay	Comparison of Focus Job Areas to Determine Existense of Disparities Compare focus job areas in terms of wage rates, working conditions, upward mobility potential etc. Compare areas where women or minorities are concentrated to areas where they are not or where there are major pay disparities.
			Minority	Female	Minority	Female		
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
NOTES:								

DISCUSS FOCUS JOB AREAS (POTENTIAL AFFECTED CLASSES) WHICH, AS A RESULT OF YOUR ANALYSIS, APPEAR TO REQUIRE FURTHER ONSITE EXAMINATION. DISCUSSION MAY INCLUDE INITIAL PLACEMENT, EFFECT OF COLLECTIVE BARGAINING AGREEMENT(S), AND/OR CONTRACTOR POLICY(IES), ON UPWARD MOBILITY, ETC.

RESULTS OF YOUR ANALYSIS OF DISPARATE TREATMENT AND/OR ADVERSE EFFECT IN PERSONNEL ACTIVITY.

SUMMARY OF DESK AUDIT AND RECOMMENDATIONS

JOB TITLE ANALYSIS SHEET

JOB TITLE	MINORITIES						FEMALES					
	AVAILABILITY %		JTAR (AI ± (AX 2)	INTERNAL UTILIZATION IU	FOCUS JOB TITLE		AVAILABILITY %		JTAR (AI ± (AX 2)	INTERNAL UTILIZATION IU	FOCUS JOB TITLE	
	INTERNAL	EXTERNAL			YES	NO	INTERNAL	EXTERNAL			YES	NO

Standardized Tables for Determination of Focus Job Areas

The tables on pages 2-A-47 thru 85 of the manual provide a quick way to determine whether the number of minorities or women employed in a job group falls within the JAAR. The tables, titled Standardized Tables for Determination of Focus Job Areas, eliminate the need for a mathematical JAAR computation. However, the tables can be used only when (a) internal availability does not exceed 35 percent and (b) the number of employees in the job area is 540 or less.

The vertical column of the left side of the tables shows the number of employees in the job area, and the top horizontal line shows the internal availability percentage. The two figures given at the point where the employment and availability lines intersect represent the number of minority or female employees within the JAAR.

Suppose, for example, that you wish to determine an acceptable range of minority employees for a job area employing 97 persons. The contractor's internal availability is 20 percent. You would find 97 in the left hand column and then read across the page to the column headed 20 percent. The figures shown at that point--15 and 23--indicate 15 to 23 minority group members must be employed in that job group in order to meet the JAAR requirements. (Note that while the JAAR computation shows acceptable percentages of minority or female employment in a job area, the tables show the acceptable number of minority or female employees.)

NBR	2%	3%	4%	5%	6%	7%	8%	9%	10%	11%	12%	13%	14%	15%	16%	17%	18%	19%	20%	25%	30%	35%
1 1																						
2 2																						
3 3																					1	1
4 4																				1	1	1 1
5 5																1	1	1	1	1 1	1 1	1 2
6 6													1	1	1	1	1	1	1	1 1	1 2	1 2
7 7											1	1	1	1	1	1	1 1	1 1	1 1	1 2	1 2	1 2
8 8										1	1	1	1	1	1 1	1 1	1 1	1 1	1 1	1 2	1 2	2 3
9 9									1	1	1	1	1 1	1 1	1 1	1 1	1 1	1 2	1 2	1 2	2 3	2 3
10 10								1	1	1	1	1 1	1 1	1 1	1 1	1 2	1 2	1 2	1 2	2 3	2 3	2 4
11 11							1	1	1	1	1 1	1 1	1 1	1 1	1 2	1 2	1 2	1 2	1 2	2 3	2 3	3 4
12 12						1	1	1	1	1 1	1 1	1 1	1 2	1 2	1 2	1 2	1 2	1 2	1 2	2 3	2 4	3 5
13 13						1	1	1	1 1	1 1	1 1	1 2	1 2	1 2	1 2	1 2	1 2	1 2	2 3	2 3	3 4	3 5
14 14					1	1	1	1 1	1 1	1 1	1 2	1 2	1 2	1 2	1 2	1 2	2 3	2 3	2 3	2 4	3 5	3 5

2-4-47

NBR	2%	3%	4%	5%	6%	7%	8%	9%	10%	11%	12%	13%	14%	15%	16%	17%	18%	19%	20%	25%	30%	35%
15								1	1	1	1	1	1	1	1	2	2	2	2	3	3	4
15					1	1	1	1	1	1	2	2	2	2	2	3	3	3	3	4	5	6
16							1	1	1	1	1	1	1	1	2	2	2	2	2	3	3	4
16					1	1	1	1	1	2	2	2	2	2	3	3	3	3	3	4	5	6
17							1	1	1	1	1	1	1	2	2	2	2	2	2	3	4	4
17				1	1	1	1	1	2	2	2	2	2	3	3	3	3	3	4	5	6	7
18						1	1	1	1	1	1	1	2	2	2	2	2	2	2	3	4	5
18				1	1	1	1	1	2	2	2	2	3	3	3	3	3	4	4	5	6	7
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533	8	12	17	21	25	29	34	38	42	46	51	55	59	63	68	72	76	81	85	106	127	149
533	12	19	25	31	38	44	51	57	63	70	76	83	89	95	102	108	115	121	127	159	191	223
534	8	12	17	21	25	29	34	38	42	46	51	55	59	64	68	72	76	81	85	106	128	149
534	12	19	25	32	38	44	51	57	64	70	76	83	89	96	102	108	115	121	128	160	192	224
535	8	12	17	21	25	29	34	38	42	47	51	55	59	64	68	72	77	81	85	107	128	149
535	12	19	25	32	38	44	51	57	64	70	77	83	89	96	102	109	115	121	128	160	192	224

NBR	2%	3%	4%	5%	6%	7%	8%	9%	10%	11%	12%	13%	14%	15%	16%	17%	18%	19%	20%	25%	30%	35%
536	8	12	17	21	25	30	34	38	42	47	51	55	60	64	68	72	77	81	85	107	128	150
536	12	19	25	32	38	45	51	57	64	70	77	83	90	96	102	109	115	122	128	160	192	225
537	8	12	17	21	25	30	34	38	42	47	51	55	60	64	68	73	77	81	107	107	128	150
537	12	19	25	32	38	45	51	57	64	70	77	83	90	96	103	109	115	122	128	161	193	225
538	8	12	17	21	25	30	34	38	43	47	51	55	60	64	68	73	77	81	86	107	129	150
538	12	19	25	32	38	45	51	58	64	71	77	83	90	96	103	109	116	122	129	161	193	225
539	8	12	17	21	25	30	34	38	43	47	51	56	60	64	68	73	77	81	86	107	129	150
539	12	19	25	32	38	45	51	58	64	71	77	84	90	97	103	109	116	122	129	161	194	226
540	8	12	17	21	25	30	34	38	43	47	51	56	60	64	69	73	77	82	86	108	129	151
540	12	19	25	32	38	45	51	58	64	71	77	84	90	97	103	110	116	123	129	162	194	226

SCRR Form A

TECHNICAL REQUIREMENTS	" ✓ " APPLICABLE COLUMN		
	N/A	YES	NO
Posters Displayed			
2. EEO/Sex Listings in Advertisements.			
3. Contractor has evidence that he had advised vendors and/or Contractors with 50 or more employees and a current Contract of $50,000 or more, to develop an AAP as required by 41 CFR 60-1.4(a)(7).			
4. Unions Notified of Commitments Under E.O. 11246, as Amended.			
5. Purchase Orders/Subcontracts Have EEO Reference.			
6. Certification of Non-Segregated Facilities.			
7. AAPs have been developed and maintained on a current basis at each establishment. *(Corporate review only.)*			
8. Certification of Non Segregated Facilities has been obtained from all applicable Subcontractors.			
9. Current SF-100 has been filed by Contractor.			
10. Contractor has notified vendors and/or subcontractors of the obligations to file the SF-100 on an annual basis.			

REMARKS

FOR OPTIONAL USE IN DETERMINING EXISTENCE OF AFFECTED CLASS

ANALYSIS OF JOBS WITH SUBSTANTIAL CONCENTRATIONS OF MINORITIES OR WOMEN

DEPART, LINE OF PROGRESSION, OR
UNIT WITHIN WHICH PROMOTION NORMALLY OCCURS ______

NAME	JOB TITLE	RATE OF PAY	SEX	MINORITY GROUP								NON-MINORITY		ORIG. HIRE DATE	SENIORITY DATES				OTHER
				MALE				FEMALE				MALE	FEMALE		DEPT	JOB	CO.	PLANT	
				B	H	A/P	AI	B	H	A/P	AI								

(Continued)

U. S. DEPARTMENT OF LABOR Employment Standards Administration Office of Federal Contract Compliance Programs	CONTRACT COMPLIANCE REVIEW, SECTION 1 DESK AUDIT CRITIQUE

The impact Ratio is a statistical method used to determine whether any race, ethnic or sex group has experienced adverse impact from the use of "objective" employment practices. For each job group at the facility, a ratio is established for each employment function. An ideal ratio is one-to-one, or an I. R. of 1.0. Adverse impact is present if any ration is less than 0.8

This form is used to document instances of adverse impact. Before this form can be completed, the EOS must first establish which racial/sex group has the highest rate (or lowest rate in the case of terminations). See manual instructions for methodology.

RACE/ETHNIC GROUP ANALYSIS

JOB GROUP	SELECTION	PROMOTION	TRAINING	RECRUITMENT	TERMINATION
	Racial Group Under Consideration = I.R. Group W/Highest Rate	Racial Group Under Consideration = I.R. Group W/Highest Rate	Racial Group Under Consideration = I.R. Group W/Highest Rate	Racial Group Under Consideration = I.R. Group W/Highest Rate	Group with Lowest Rate = I.R. Racial Group Under Consideration

(Continued)

U. S. DEPARTMENT OF LABOR Employment Standards Administration Office of Federal Contract Compliance Programs	CONTRACT COMPLIANCE REVIEW, SECTION I DESK AUDIT CRITIQUE

The Impact Ratio is a statistical method used to determine whether any race or sex group has experienced adverse impact from the use of "objective" employment practices. For each job group at the facility, a ratio is established for each employment function. An ideal ratio is one-to-one, or an I. R. of 1.0. Adverse impact is present if any ratio is less than 0.8.

This form is used to document instances of adverse impact. Before this form can be completed, the EOS must first establish which racial/sex group has the highest rate (or lowest rate in the case of terminations). See manual instructions for methodology.

SEX GROUP ANALYSIS

JOB GROUP	SELECTION	PROMOTION	TRAINING	RECRUITMENT	TERMINATION
	Sex Group Under Consideration / Group w/Highest Rate = I.R.	Sex Group Under Consideration / Group w/Highest Rate = I.R.	Sex Group Under Consideration / Group w/Highest Rate = I.R.	Sex Group Under Consideration / Group w/Highest Rate = I.R.	Group with Lowest Rate / Sex Group Under Consideration = I.R.

SCRR Form D

TRIBAL PARTICIPANT LIST

	TRIBAL/INTERTRIBAL AND ADDRESS	TRIBAL REPRESENTATIVE
1.	White Mountain Apache Tribe P. O. Box 708 Whiteriver, AZ 85941 (602) 338-4346	Duane Dougherty, Esq. TERO Director
2.	Northern Cheyenne Tribe P. O. Box 307 Lame Deer, MT 59043 (406) 477-6643	Zane Spang TERO Director
3.	Papago Tribe P. O. Box 837 Sells, AZ 85634 (602) 622-6038 - Ext. 336	John Navarro TERO Director
4.	Umatilla Tribe Box 638 Pendleton, OR 96801 (503) 276-3165	Michelle Liberty TERO Director
5.	United Sioux Tribes Box 1193 Pierre, SD 57501 (605) 224-8862	Conrad Red Willow EEO Director
6.	Makah Tribe P. O. Box 115 Neah Bay, WA 98367 (206) 645-2205	Donna Parker Personnel Director
7.	The Blackfeet Tribe Box 387 Browning, MT 59417 (406) 338-5525	Carl Schildt TERO Director
8.	Seminole Tribe C/O CETA Program Box 635 Wewoka, OK 74884 (405) 257-5469	Joe Pennokee TERO Director

9. Gros Ventre/Assiniboine Tribes - Ft. Belknap Box 58 - Route 1 Harlem, MT 59526 (406) 353-2205	Winona Gibbs TERO Director
10. Quechan Tribe Box 757 Yuma, AZ 85364 (714) 572-0550	James Montague Co-TERO Director Gregory Yuma Co-TERO Director
11. Colville Tribe Box 150 Nespelem, WA 99155 (509) 634-3491	Arnie Marchand TERO Director

APPENDIX 2C
AVAILABILITY: QUANTIFICATION AND SOURCE DATA

2C-10 Data Sources and Uses

2C-10.1 Availability data must have certain characteristics to be useful

2C-10.1a Distribution

2C-10.1a1 By individual minority group representation

2C-10.1a2 By sex

2C-10.1a3 By geographic area

2C-10.1b Quality

2C-10.1c Currency. Basing affirmative action on historical employment patterns will only perpetuate past discrimination into the future. Thus, the worth of data 5 or more years old is questionable.

2C-10.1d Validity. The user must understand what the data mean and what they do not mean. Data from multiple sources must be checked for compatibility, to ensure that the data concern the same group from the same labor area at the same time.

2C-10.1e Accessability. Specify source of data.

2C-10.1f Completeness. Present raw numbers as well as percentages.

2C-10.2 Sources of Information for each of the availability factors specified in 41 CFR 60-2.11(b)(1) and (2) together with any appropriate cautions regarding their use, are set forth below.

2C-20 The minority population of the labor area surrounding the facility. (Caution: 1970 Census data are based upon place of residence, not place of work. This was not changed until February 1975. Be aware of the Census Bureau publication, General Social and Economic Characteristics, PCC (1) - C16, table 82, "Mobility," and Community Patterns by Place of Work and Place of Residence. 1970 Census data.)

2C-20.1 Data are available for a variety of geographic areas: Nation, State, SMSA, county, city census tract.

2C-20.2 The 1970 Census publication, Population Characteristics, PC (1) B. Provides the following:

2C-20.2a *Table 17 -- State data

2C-20.2b *Table 23 -- SMSA and principal city data

2C-20.2c *Table 27 -- Cities of 10,000-50,000 population

2C-20.2d *Table 31 -- Cities of 2,500-10,000 population

2C-20.2e *Table 32 -- Cities of 1,000-2,500 population

2C-20.2f *Table 34 -- Counties

2C-20.2g *Table 33 -- Townships within counties

2C-20.2h *Principal sources of information regarding blacks, Asian Americans, and whites.

2C-20.3a *PC (1)-C--Spanish origin data

2C-20.3b *Table 49 - State data

2C-20.3c *Table 81 - SMSA and principal city data

2C-20.3d *Table 102 - Cities of 10,000-50,000 population

2C-20.3e Table 119 - County data principal source of information regarding Hispanics and Native Americans

2C-20.4 Other sources of population data: State Employment Security Division; State Department of Commerce; local chamber of commerce

2C-30 Size of the minority unemployment in the area surrounding the facility. Sources of information include:

2C-30.1 U.S. Department of Labor, Employment and Training Administration, Region IX, Occupational Manpower Characteristics, Manpower package 11 (male) and 12 (females) - 1970 data for those unemployed, by job group.

2C-30.2 *1970 Census, General Social and Economic Characteristics, PC (1)-C.

2C-30.2a Table 56 -- State data

2C-30.2b Table 88 -- SMSA and principal city data

2C-30.2c	Table 94 -- Data for blacks
2C-30.2d	Table 100 -- Data for Spanish Surnamed Americans
2C-30.2e	Table 106 -- Cities of 10,000-50,000 population
2C-30.2f	Table 123 -- Counties
2C-30.3	State Employment Security Division, Manpower Statistics for Affirmative Action Programs table 2
2C-30.4	State Employment Security Division, "Table 4 derive from ESARS Table 12," computer printout by three digit Dictionary of Occupational Titles code.
2C-40	The percentages of the minority work force as compared with the total work force in the immediate labor area. (Be aware of the distinction between the terms "work force" and "labor force." The "labor force" includes all persons aged 16-65. The "work force" includes all persons employed, laid off, or temporarily absent.) Numerous sources of data (often mutually incompatible) regarding this factor exist. They include:
2C-40.1	State Employment Security Division. Manpower Statistics for Affirmative Action Programs, Table 2 Total Work Force by Race and Sex for SMSA's, and principal cities of SMSA's.
2C-40.2	U.S. Department of Labor, Employment and Training Administration, Region IX. Summary Manpower Indicators (Manpower Package No. 1), table 6 or table 9, by county for all counties.
2C-40.3	1970 Census publication, General Social and Economic Characteristics, PC (1)-C, contains the following:
2C-40.3a	Table 64 -- State
2C-40.3b	Table 85 -- SMSA's and Principal cities
2C-40.3c	Table 92 -- Blacks
2C-40.3d	Table 98 -- Spanish
2C-40.3e	Table 104 -- Cities of 10,000-50,000 population
2C-40.3f	Table 109 -- Blacks
2C-40.3g	Table 114 -- Spanish
2C-40.3h	Table 117 -- Cities of 2,500-10,000 population
2C-40.3i	Table 121 -- Counties

2C-40.4 Local chamber of commerce

2C-50 The general availability of minorities having requisite skills in the immediate labor area. The percentages of minorities currently employed in a job classification is only one element (often an insignificant one) in determining the availability of minorities having the "requisite skills" for that job classification. The following are sources of information on the employment of minorities in job categories; however, the figures available from these sources are not, taken alone, "requisite skill" figures:

2C-50.1 Further caution is necessary in using data regarding currently employed persons, because some sources provide race/ethnic/sex employment information by occupational distribution. That is, they show the percentage of people employed in a particular job category with the total employment in a race/ethnic/sex group as a base. For example, of all Asian American males employed in the U.S., 6.6 percent were officials and managers in 1970. By contrast, other sources provide race/ethnic/sex employment information by participation rate--that is, the percentage of all persons employed in a job category who are minorities or women. For example, of all male officials and managers in the United States in 1970, 0.3 percent were Asian American. Only information regarding participation rate is relevant. Where only occupational distribution percentages are provided, the figures from which they were derived will be consulted to complete the percentage participation rate.

2C-50.2 1970 Census "General" Social and Economic Characteristics, PC (1)-C. The following sources of information regarding the employment of minorities in large occupation groups.

2C-50.2a Table 65 -- State

2C-50.2b Table 86 -- SMSA's and principal cities

2C-50.2c Table 93 -- Blacks

2C-50.2d Table 99 -- Spanish

2C-50.2e Table 105 -- Cities of 10,000-50,000 population

2C-50.2f Table 110 -- Blacks

2C-50.2g Table 115 -- Spanish

2C-50.2h Table 118 -- Cities of 2,500-10,000 population

2C-50.2i Table 122 -- Counties

2C-50.2j Table 127 -- Blacks

2C-50.2k Table 132 -- Spanish

2C-50.3 1970 Census, Detailed Characteristics; PC (1)-D. The following are sources of information regarding the employment of minorities in medium and small occupational groups.

2C-50.3a Table 170 -- State

2C-50.3b Table 171 -- SMSA's and principal cities.

2C-50.4 1970 Department of Labor, Employment and Training administration, Region IX, Occupational Manpower Characteristics, Manpower Tables 11 (male) and 12 (females), (for medium and small groups).

2C-50.5 EEOC, EEO Report: Job Patterns for Minorities and Women, 1970 (2 volumes) Data are by EEO-1 category for Nation, State, and SMSA within SIC (two-digit).

2C-50.6 U.S. Department of Labor, Bureau of Labor Statistics: Occupational Employment Service (BLS Report 430 Senex). National data by SIC (three-digit).

2C-50.7 State Employment Security Division. Table 4 derived from ESARS table 12. Data for local office service area by three-digit DOT code.

2C-50.8 Contractor's application form

2C-50.9 The availability of minorities and females having requisite skills in an area in which the contractor can reasonably recruit supply sources (and cautions) detailed above to wider geographic area.

2C-60 The availability of promotable and transferable minorities and women within the contractor's organization. A procedure by which a contractor can develop these data is as follows:

2C-60.1 Conduct a skill survey (any time during Affirmative Action Plan year) to update records, or conduct a record review.

2C-60.2 Make a list of each promotable person every year and indicate the following information:

name
race
sex
Present department
present job group
job group/s to --

2C-60.3 For individuals immediately promotable, counsel and urge them to bid or apply for positions.

2C-60.4 For individuals needing only one skill to be promotable, counsel them about internal or external training to develop that skill.

2C-60.5 Identify persons with long-range potential for highrate positions, such as technical, or professional, and counsel those individuals regarding long-range training needs. Identify persons to be provided with long-term training, such as management training, in the future.

2C-70 The existence of training institutions capable of training persons in the requisite skills. This factor may be quantified in the following manner:

2C-70.1 Identify by name and address each training institution in the relevant area such as vocational schools, high schools, colleges, business and technical schools, and manpower programs such as WIN, CETA, OIC, and IV Tech.

2C-70.2 Determine which programs, in which schools, can provide prospective workers with proper training.

2C-70.3 Obtain enrollment information for each program, by race and sex. For example, information on a school may be as follows:

OIC 111 Training Road

	TOTAL	TOTAL MALE	TOTAL WOMEN	BLACK MALE
Machinist	42	22	20	5

Where a contractor determines that participation of minorities or women in such programs is low, women and minorities both in and out of the contractor's work force should be urged to enroll in a training program. Where programs are absent, the contractor should work with schools to develop them. Government grants are often available to fund such programs.

2C-80 The degree of training which the contactor is reasonably able to undertake as a means of making all job classes available to minorities.

2C-80.1 For entry level or other positions for which training is provided by the contractor following employment, this factor is easily quantified. The ability of women and minorities to absorb and apply the percentages of minorities and women in the overall work force of the relevant labor area should be used to quantify this factor.

2C-80.2 For other jobs, a contractor may be able to provide training through the following: Apprenticeship programs, co-op work study programs, supervisor training, tuition refund programs, distributive education, WIN, and on-the-job training.

2C-90 Consideration of minorities and women not currently in the work force having requisite skills who can be recruited through affirmative action measures. Sources of data include:

2C-90.1 1970 Census publication, Detailed Characteristics PC (1)-D16 IND, table 172, "Occupation of Experienced Workers Not in the Work Force."

2C-90.2 State Employment Service, table 4 derived from ESARS table 12, Applicants Registered for Job Assistance by three-digit Dictionary of Occupational Skills Code; compiled quarterly, available in local offices.

2C-90.3 CETA "Universe of Need."

2C-100 The availability of women seeking employment in the labor or recruitment area of the contractor. Sources of data to quantify this factor include:

2C-100.1 State Employment Service, table 4 derived from ESARS table 12.

2C-100.2 Contractor's applicant flow. This will not be relied upon where contractor has not made full good-faith effort to recruit women for non-traditional jobs.

2C-110 Other sources of availability information

2C-110.1 Census of Population: 1970. PC (2) series, Subject Reports as follows:

2C-110.1a	PC (2)-1a	National origin and Language
2C-110.1b	PC (2)-1b	Negro Population
2C-110.1c	PC (2)-1c	Persons of Spanish Origin
2C-110.1d	PC (2)-1d	Persons of Spanish Surname
2C-110.1e	PC (2)-1e	Puerto Ricans in the United States
2C-110.1f	PC (2)-1f	American Indians

2C-110.1g	PC (2)-1g	Japanese, Chinese, and Filipinos in the United States
2C-110.1h	PC (2)-2b	Mobility for States and Nation
2C-110.1i	PC (2)-2c	Mobility for Metropolitan areas
2C-110.1j	PC (2)-5c	Vocational Training
2C-110.1k	PC (2)-6a	Employment Status and Work Experience
2C-110.1l	PC (2)-6b	Persons not Employed
2C-110.1m	PC (2)-6d	Journey to Work
2C-110.1n	PC (2)-6e	Veterans
2C-110.1o	PC (2)-7a	Occupational Characteristics
2C-110.1p	PC (2)-7b	Industrial Characteristics
2C-110.1q	PC (2)-7c	Occupation by Industry
2C-110.1r	PC (2)-8b	Earnings by Occupation and Education

2C-110.2	The following are available from U.S. Department of Labor, Bureau of Labor Statistics, Publications Office, Washington, D.C. 20212:
2C-110.2a	Handbook of Labor Statistics (Annual)
2C-110.2b	Geographic Profile of Employment and Unemployment (Annual)
2C-110.2c	Occupational Employment Series
2C-110.2d	Occupational Outlook Handbook (bi-annual)
2C-110.2e	Employment and Earnings (monthly)
2C-110.2f	Special Labor Force Reports (periodic)
2C-110.2g	Reprints from Monthly Labor Review.
2C-110.3	The following are available from U.S. Department of Labor, Employment Standards Administration, Women's Bureau, Washington, D.C. 20210:
2C-110.3a	A Guideline to Sources of Data on Women and Women Workers.
2C-110.3b	United States and for Regions, States, and Local Areas.

best copy available

2C-110.3c	*Women Workers in Indiana, 1970*
2C-110.3d	*The Economic Role of Women*
2C-110.3e	*Women Workers Today*
2C-110.3f	*Facts on Women Workers of Minority Races*
2C-110.3g	*Women Workers in Regional Areas and in Large States and Metropolitan Areas*
2C-110.4	The following are available from U.S. Department of Labor, Employment and Training Administration, Management Information Center, Federal Building, 450 Golden Gate Avenue, Box 36084, San Francisco, California 94102:
2C-110.4a	Manpower Package 1--Summary Manpower Indicators
2C-110.4b	Manpower Package 2--Detailed Manpower Indicators: U.S., State SMSA's, Counties of 50,000 or more; cities of 50,000 or more.
2C-110.4c	Manpower Package 5--Zip Code Area Manpower Profile
2C-110.4d	Manpower Package 6--Journey to Work
2C-110.4e	Manpower Package 7--Comparative Industry Structures
2C-110.4f	Manpower Package 8--Comparative Occupational Structures (both sexes)
2C-110.4g	Manpower Package 9--Comparative Occupational Structures (females)
2C-110.4h	Manpower Package 10--Industry Manpower Characteristics
2C-110.4i	Manpower Package 11--Occupational Manpower Characteristics (male)
2C-110.4j	Manpower Package 12--Occupational Manpower Characteristics (female)
2C-110.5	The following are available from Equal Employment Opportunity Commission, Office of Research, 2121 K Street, N.W., Washington, D.C. 20506:
2C-110.5a	*Job Patterns for Minorities and Women in Private Industry*, 1970 (2 volumes)
2C-110.5b	Report No. 19-A, Nine-City Minority Group Employment Profile

2C-110.5c	Report No. 38, Employment Profiles of Minorities and Women in SMSA's of 16 Large Cities
2C-110.5d	Report No. 41, Employment Profiles of Minorities and Women in SMSA's of 17 Large Cities
2C-110.6	The following are available from the National Academy of Sciences, National Research Council, Commission on Human Resources, 2101 Constitution Avenue, N.W., Washington, D.C. 20418:
2C-110.6a	Summary Report of Doctorate Recipients from U.S. Universities (annual)
2C-110.6b	Doctoral Scientists and Engineers in the U.S.: 1973 Profile
2C-110.6c	Minority Groups Among U.S. Doctorate Level Scientists, Engineers, and Scholars, 1973
2C-110.7	The following are available from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402
2C-110.7a	Students Enrolled for Advanced Degrees, Part A Summary Data: Part B, Detailed
2C-110.7b	Fall Enrollment in Higher Education
2C-110.7c	American Science Manpower
2C-110.7d	Earned Degrees Conferred, 1969-1970; Part A Summary Data; Part B, Institutional Data
2C-110.7e	Monthly Labor Review (subscription only)
2C-110.8	The following are available from State Employment Service, Research and Statistics Section.
2C-110.8a	Labor Market Information (monthly)
2C-110.8b	Manpower Trends (quarterly)
2C-110.8c	Manpower Information for Affirmative Action Programs
2C-110.8d	Occupational Employment Statistics Program (by SIC)
2C-110.8e	Table 4 - derived from ESARS table 12 (Computer printout)
2C-110.8f	Community Patterns by Place of Work and Place of Residence (1970 data)

2C-110.9	The following are usually available from State Departments of Commerce, planning and research groups:
2C-110.9a	Community profiles
2C-110.9b	Special research
2C-110.10	The following are typical local data sources:
2C-110.10a	Local chambers of commerce
2C-110.10b	Local school systems
2C-110.10c	Local vocational schools
2C-110.10d	Local community groups
2C-110.10d1	Local commissions or task forces on status of women
2C-110.10d2	Urban League, NAACP
2C-110.10d3	Tribal Employment Rights Offices (TEROs)
2C-110.11	Professional Groups:
2C-110.11b	American Association of University Women, Project on the Status of Women, 2401 Virginia Avenue, N.W., Washington, D.C. 20037
2C-110.11c	Association of American Colleges, Project on the Status and Education of Women, 1818 R Street, N.W., Washington, D.C. 20009

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CHAPTER 3. ONSITE REVIEW PROCEDURES FOR SUPPLY AND SERVICE CONTRACTORS AND ALSO FOR CONSTRUCTION CONTRACTORS COVERED BY SECTIONS 402/503

3-10 Purpose

3-10.1 To identify the reasons or possible reasons for certain deficiencies in the contractor's AAP and to evaluate the correction action taken or planned.

3-10.2 To gather additional data/information to determine whether or not the contactor developed, maintained, and implemented an acceptable AAP in accordance with 41 CFR Part 60-2, 60-250.5 and 6, 60-741.5 and 6, including the adoption, implementation, and attainment of appropriate goals and timetables, and remedying of past discrimination.

3-10.3 To determine whether the contractor has made appropriate good faith efforts where goals and timetables have not been met.

3-10.4 To determine whether possible affected classes exist.

3-10.5 To resolve questions identified by the desk audit which are not fully or satisfactorily addressed in the AAP and supporting data, or other contractor documentation concerning Executive Order compliance.

3-10.6 To determine a contractor's compliance status (or a prospective contractor's ability to comply) with the equal employment opportunity requirements in connection with a preaward clearance request.

3-10.7 To determine compliance of industries or companies which have been targeted for review.

3-10.8 To determine a contractor's compliance with the equal employment opportunity requirements in connection with a complaint investigation.

3-10.9 To determine whether a contractor has violated a conciliation agreement, Consent Decree, or letter of commitment.

3-10.10 To establish compliance with 41 CFR 60-250 and 41 CFR 60-741.

3-20 Applicability and Notification

3-20.1 This chapter points out the essential procedures that the EOS, unless otherwise directed, should follow in each review.

3-20.2 These procedures are not meant to be all inclusive or to provide an inflexible sequence for conducting the review, but are designed to provide a basic guide that will assist the EOS in conducting the review and in preparing the SCRR.

3-20.3 The applicability or relevancy of each procedure or analysis will depend on the deficiencies found in the specific review.

3-20.4 The EOS should give the contractor adequate notice of the time and place of the review to ensure that the records, data and documentation required for the review are available at that time. See figure 3-1 for sample notice of onsite review.

3-20.5 See section 3-130 for review procedures applicable to Religion and National Origin requirements, 41 CFR Part 60-50.

3-30 General Principles for Determining Good Faith Effort During Onsite Reviews

3-30.1 Good faith effort should be evaluated where the contractor has not attained appropriate goals and timetables, including previously approved AAP goals and timetables.

3-30.2 The contractor's documentation to substantiate good faith effort should include:

3-30.2a Evidence of compliance with the guidelines for affirmative action programs listed in 41 CFR 60-2.20 through 60-2.26, and Parts 60-250 and 741.

3-30.2b Evidence concerning the number and kinds of opportunities available to the contractor, if any, to meet the goals in the AAP.

3-30.3 The EOS should review and evaluate the good faith effort documentation provided for relevancy and adequacy.

3-30.4 Where relevant, the EOS should contact outside sources for further verification, interview officials responsible for meeting the goal(s) and identify any other sources, including employees, applicants, and complainants.

3-30.5 All conclusions drawn by the EOS relating to good faith efforts should be thoroughly documented in the file.

3-40 Overview of the Onsite Review Process. Basic steps in the normal onsite review include:

3-40.1 Community survey.

3-40.2 Entrance Conference.

3-40.3 Audit of EEO policies and procedures.

3-40.4 Review of contractor records in audits of personnel procedures.

3-40.5 Review of contractor personnel practices having adverse impact on and/or resulting in disparate treatment of protected employees or applicants.

3-40.6 Audit of contractor personnel practices.

3-40.7 Audit of compliance with 41 CFR Parts 60-1 through 60-60.

3-40.8 Audit of compliance with 41 CFR Parts 60-250 and 741.

3-40.9 Physical inspection of contractor's establishment.

3-40.10 Audit of compliance with technical requirements.

3-40.11 Employee interviews.

3-40.12 Exit conference.

3-40.13 Onsite narrative report.

3-40.14 Notification of compliance review results.

3-40.15 The onsite review steps noted above may not be necessary for every review. The matters investigated onsite will depend, for example, on the deficiencies identified in the desk audit (where one was performed), severity of the identified problem(s), and the time available to complete the review.

3-50 Community Survey

3-50.1 Community survey may be made as appropriate and practical.

3-50.2 Relevant information which may be obtained through community contacts, if not already on file or known, may include:

3-50.2a Population and workforce data as specified in 41 CFR 60-2.11.

3-50.2b Other key industries and companies with whom the contractor will be competing for minorities, women, handicapped individuals and covered veterans.

3-50.2c Listing of and information about significant employment oriented organizations which have been or could be referral sources for minorities, women and handicapped individuals and covered veterans for the contractor, including their placement-related experience with the contractor; any knowledge which they may have concerning the contractor's hiring/promotion activities from an EEO perspective; other relevant information suggestive of possible EEO problem areas.

3-50.2d Information from community leaders, including information of the type noted in section 3-50.2c.

3-50.2e Comments on the community image of the contractor as an EEO employer and as a supporter of minority and female business enterprises.

3-50.3 The EOS should focus on complaints filed in areas of identified concentrations, underutilizations, or involving job groups for which goals were not met. (The EOS should review EEOC files and those of State and local government civil rights agencies for information regarding complaints of employment discrimination.)

3-50.4 Where there are local civil rights organizations, the EOS should contact them for relevant information of the type noted in section 3-50.2c.

3-60 Entrance Conference

3-60.1 The entrance conference should be attended by the establishment's CEO or his/her designee.

3-60.2 During this conference, the EOS may, as appropriate:

3-60.2a Provide a brief explanation of the compliance program.

3-60.2b Provide information on OFCCP policies, practices, rules, or regulations.

3-60.2c Clarify his/her understanding of the contractor's corporate or establishment organization.

3-60.2d Discuss the extent of the contractor's participation in Federal contracts.

3-60.2e Obtain the contractor's initial explanation of potential deficiencies or apparent problem areas.

3-60.2f Discuss any additional data that has been requested.

3-60.2g Estimate the number of days the onsite review will require.

3-60.2h Identify the kind and location of the contractor's personnel record systems.

3-60.2i Request cooperation for employee and supervisory interviews.

3-60.2j State the need to inspect the establishment.

3-60.2k Describe the procedures that will be followed during the review.

3-60.2l Establish a tentative date for the exit conference.

3-70 Audit of EEO Policies and Procedures. The EOS should review the appropriate files, reports, documents, etc. to:

3-70.1 Determine whether the contractor complied with its own AAP.

3-70.2 Review the contractor's efforts to communicate its EEO policy to minorities, women, handicapped individuals and covered veterans, and recruitment sources.

3-70.2a Evaluate the contractor's support of community action programs or agencies that could assist in implementing its AAP. Review any records.

3-70.3 Review the contractor's procedures regarding the following, as appropriate:

3-70.3a The statement of its EEO policy in manuals, orientation booklets and publications relating EEO achievements;

3-70.3b Supervisor's EEO responsibility. The EOS should determine the:

3-70.3b1 Extent to which supervisors are involved in the EEO goal-setting process;

3-70.3b2 Extent to which evaluations of supervisors are based on EEO efforts and results;

3-70.3b3 Extent to which supervisors are held accountable for failure to meet AAP goals;

3-70.3c Contractor's efforts with minority, women's, handicapped individuals and covered veterans organizations.

3-70.3d Internal audit systems to ensure attainment of AAP goals.

3-70.4 Where any AAP goals were missed by more than 5%, the EOS should make findings on the contractor's good-faith efforts regarding the items specified in sections 3-70.1 through 3-70.3.

3-70.5 Review any other policies or procedures necessary to determine the contractor's compliance status.

3-80 Review of Contractor Records In Audits of Personnel Procedures

3-80.1 Audits of personnel procedures to resolve compliance questions must include review of any relevant contractor records. Refer to the procedures in section 3-140 for audit of personnel procedures relating to handicapped individuals and covered veterans.

3-80.2 Types of personnel records. Examples of potentially relevant records include:

3-80.2a Recruitment. Contractor correspondence with recruitment sources; activity logs kept by recruiters; job orders placed with private personnel agencies; records of interviews and job offers kept by college recruiters.

3-80.2b Hiring. Applicant logs; completed job requisition forms; completed interview scoring sheets or similar records; records of employment tests; and credit or other investigative reports regarding applicants.

3-80.2c Promotion. Company policies; manuals; job descriptions; seniority rosters; collective bargaining agreements, and modifications and supplements to them; supervisory evaluations; personnel files; completed promotion or transfer request forms; bid records and grievance records.

3-80.2d Training. Company policies and manuals; seniority rosters; forms used to request training or to designate employees for training; collective bargaining agreements, and modifications and supplementals to them; rosters of employees attending courses; and instructor appraisals or other forms used to record the results of training.

3-80.2e Termination and Layoff/Recall. Company policies; seniority rosters; records of grievance hearings; employee personnel files; completed exit interview forms, including lay-off and recall records, collective bargaining agreements, etc.

3-80.3 The number of personnel records the EOS should review may vary with the nature of the potential deficiency. In every case, a sufficient number of records must be reviewed to adequately support the EOS's determinations.

3-80.4 Records should also be examined to ascertain if the contractor's practices or policies gave rise to the existence of an affected class. Refer to chapter 7.

3-80.5 Documentation. The EOS should normally obtain copies of relevant documents.

3-90 Audit of Personnel Practices for Adverse Impact and/or Disparate Treatment

3-90.1 If the total selection process does not have an adverse impact on any race, sex, or ethnic group, and if disparate treatment does not appear to be present, the EOS normally should not investigate the selection process further. But, if the total selection process includes a component which either: (1) is a significant factor in continuing a pattern of assignments within the organization which resulted from prior discriminatory practices or (2) has been held to be not job related by court decisions or administrative rulings in the same or similar circumstances (such as a no-arrest record requirement) the EOS should request the contractor to determine whether that component has an adverse impact. In addition, if the total selection process includes a component which is a major cause of underutilization, the EOS should refer to 41 CFR 60-2.13, et seq. (Note: Refer to manual Foreword for use of "significant" in above context.)

3-90.2 If the total selection process has an adverse impact, the EOS should analyze each of the components of the process to identify the source of the adverse impact.

3-90.2a Where a component with an adverse impact has not been validated, in accordance with 41 CFR Part 60-3, the EOS should require, where the overall selection procedure has an adverse impact, that the impact be eliminated either from the overall process or from the components causing the impact in the overall process. Permissible actions include eliminating the component causing the adverse impact, adjusting the use of that component, or making adjustments in other components so that the overall selection process does not have an adverse impact.

3-90.2b Where a component with an adverse impact has, according to the contractor, been validated in accordance with 41 CFR 60-3, the EOS should obtain a copy of the validity study from the contractor and send it, along with the evidence of adverse impact, to the Division of Program Analysis, NO, for evaluation.

3-90.3 Where a contractor proposes to validate the selection process in accordance with 41 CFR Part 60-3, or any of its components, the EOs should not allow the adverse impact to continue unless the contractor can cite substantial evidence of validity (as required by 41 CFR Part 60-3) and has in progress studies designed to produce the remaining data in a reasonable time.

3-90.3a Where the contractor claims to have such evidence, and such a study in progress, the EOS should send the contractor's evidence and information about the study to the Division of Program Analysis, NO, for evaluation.

3-90.3b In regard to interim use of selection procedures while a validation study is in progress, the EOS should inform the contractor that: if the completed study does not demonstrate validity, the provision of the Employee Selection Guidelines permitting interim use shall not constitute a defense in any action, nor shall it relieve the user of any obligations arising under Federal law (41 CFR 60-3.5).

3-90.4 Whether or not it has been validated, and whether or not it has adverse impact, the selection process should be examined for disparate treatment. For example, assume that prior to 1978 the contractor did not permit women to fill the job of assembler, and that men wishing to become assemblers were placed solely on the basis of seniority (i.e., there was no test or other requirement for placement). Further assume that in 1978 the contractor began to permit women to bid for assembler jobs, but that at the same time the contractor instituted a requirement that all newly selected assemblers pass an aptitude test. Irrespective of validity or adverse impact, the aptitude test places the newly eligible female bidders at a disadvantage when compared with males who were hired contemporaneously. The new requirement, therefore, evidences disparate treatment and thus, violates the Executive Order. The contractor must stop using the test and must provide appropriate affected class relief. Refer to section 7-30.3c3 for further guidance.

3-95 Audit of Recruitment, Hiring, Promotion, Transfer, Layoff and Recall Procedures. The EOS should audit, where necessary, the contractor's stated procedures using the contractor's AAP and support data; personnel manual, seniority rosters, collective bargaining agreements, and supplements and modifications to them; bidding or promotion request records; written policies; letters to recruitment agencies; and similar information. Incumbents may be asked to describe how they were actually placed in their positions. The EOS should determine whether the contractor actually followed its stated procedures, and should note any apparent departures in regard to the contractor's EEO posture.

3-95.1 In selecting the specific personnel procedures for indepth audit, the EOS should identify units of an establishment's work force (e.g., seniority unit, department, LOP, etc.) in which minorities or women are concentrated or underrepresented relative to their overall representation in the relevant work force sector. These are focus job groups. Refer to section 1-60.74.

3-95.1a The EOS should determine how vacancies in focus job areas are filled, e.g., by hire, promotion, transfer or a combination of these procedures.

3-95.1b The EOS should also determine how layoff/recall procedures operate, e.g., in what order are employees laid off, who (if anyone) can they displace, in what order are they recalled from layoff, when recalled do they return to their former jobs, etc.?

3-95.2 Where vacancies in a focus job area are filled by promotion/transfer the EOS should:

3-95.2a Verify whether vacancies are filled only by promotion/transfer, as applicable.

3-95.2b Determine the race, ethnic, and sex composition of incumbents in jobs from which employees are promoted or transferred into the focus job area.

3-95.2c Where the promotion/transfer pool includes enough members of the relevant race, ethnic, or sex group, audit the contractor's promotion procedures using the procedures in section 3-95.2d.

3-95.2d Where transfer and promotion procedures are related to a potential deficiency, the EOS should (as relevant):

3-95.2d1 Determine, if qualified minority and female employees were passed over in favor of male or nonminority incumbents. If so, why?

3-95.2d2 Obtain the contractor's rationale for filling positions solely by promotion/transfer from within where its work force is predominantly male or non-minority. Are exceptions ever made? If so, on what basis?

3-95.2d3 Identify promotion sequences and lines of progression, as identified by collective bargaining agreements, personnel manuals, and/or by past practice.

3-95.2d4 Determine how employees become candidates for promotion/transfer. Identify those positions into which promotion/transfer is purely a matter of supervisory initiative, and those positions for which an employee may apply, through posting and bidding systems or transfers.

3-95.3 Where vacancies are filled by new hire, the EOS should review the contractor's recruitment procedures, including applicant flow data.

3-95.4 Where the contractor's selection process relates to a potential deficiency, the EOS should follow 41 CFR Part 60-3.

3-95.5 Where a layoff/recall has affected the work force, the EOS should determine whether stated layoff/recall procedures have been followed and what the impact of the layoff/recall has been on minority/female employees.

3-95.6 The EOS should review any other recruitment, hiring, promotion, transfer, layoff and recall policies and practices as necessary to determine the contractor's compliance status.

3-95.7 The EOS should review the contractor's recruitment procedures relating to part-time and temporary position vacancies and determine the extent to which local organizations are involved in referrals and minorities and women are covered by appropriate goals and timetables. Additionally, the EOS should examine the contractor's employment pattern of temporary summer hires to ensure that the applicable recruitment procedures are not inherently discriminatory, with preference accorded those referred by establishment "insiders."

3-100 Audit of Training and Educational Programs. The EOS should:

3-100.1 Obtain a general understanding of all training and educational programs offered by the contractor. Specific attention should be given to programs, such as apprenticeship, which are prerequisites for placement into job groups in which minorities or women are underutilized such as focus job groups. Attention should be given to programs intended to promote general upward mobility. Attention should also be given to the extent to which training and educational opportunities have been afforded to employees in areas of concentration or underutilization.

3-110 Audit of Compensation Practices. Where pay discrepencies are identified in the desk audit, the EOS should:

3-110.1 Identify the job areas with apparent discrepencies, including a comparison of salaries of individuals with similar jobs.

3-110.2 Evaluate the contractor's explanation of the criteria for assigning wage or salary rates.

3-110.3 When one quantifiable variable is alleged by the contractor, the probability that compensation is actually based upon that factor can be determined by:

3-110.3a Ranking the employees in order of descending pay.

3-110.3b Ranking the employees according to the variable.

3-110.3c Comparing the actual pay of minorities or women with the pay that they would have received were rates of pay based upon the variable.

3-110.3d For example, a contractor states that rates of pay within a job area are based upon years of seniority in the job. The EOS would rank employees first in order of wage rates, then in order of job seniority, as follows:

Ranked by Wage Rate		Ranked by Job Seniority			
Employee	Hourly Rate	Hourly Rate	Employee	Job Seniority Date	Differences
A	$5.50	$5.40	*C	1956	-.10
B	5.45	5.50	A	1957	+.05
*C	5.40	5.45	B	1958	+.05
D	5.30	5.30	E	1958	0
E	5.30	5.30	D	1959	0
F	5.20	5.10	*H	1961	-.10
G	5.20	5.20	F	1962	0
*H	5.10	5.20	G	1965	+.10

*Minority employees.

By the contractor's own criteria, employees C and H are underpaid at a rate of $0.10. The contractor should then be requested to demonstrate that the wage disparities are not based upon race.

3-110.4 Where a contractor states that pay rates are based on more than one variable, a comparison similar to that performed above can be used to determine the actual weight that was given each variable. For example:

3-110.4a A contractor states that pay rates of engineers are based upon years of job experience and years of graduate education.

3-110.4b On further inquiry, the contractor states that each year of graduate education in engineering would increase an employee's pay by approximately $2,000, and that each additional year of work experience would result in an increase of approximately $500 per year, until the maximum rate of $25,000 per year was reached. The base yearly salary for the position (yearly salary that would be paid to an employee with only a BS in engineering and less than 1 year of job experience) is $12,000.

3-110.4c Since, according to the contractor, one year of graduate engineering education results in a pay increment four times that resulting from an increase of 1 year of job experience, the formula for ranking employees in terms of the contractor's variables where A equals years of graduate education and B equals years of job experience, is A + .25B. If the contractor is applying the stated criteria, employees should be compensated in accordance with the ranking produced by this formula.

3-110.4d The EOS derives the following information:

Employee	Years Graduate Education	Years Job Experience	Points
A	0	10	0+(.25x10) = 2.5
B	1	4	1+(.25x4) = 2.0
C	2	5	2+(.25x5) = 3.25
D	0	2	0+(.25x2) = 0.5
E	1	8	1+(.25x8) = 3.0
*F	3	2	3+(.25x2) = 3.5
G	1	4	1+(.25x4) = 2.0

*Woman

Employees Ranked in Terms of Yearly Salary

Employee	Salary
C	$18,500
E	18,000
A	17,000
B	16,500
G	15,500
*F	14,000
D	13,000

Employees Ranked in Accordance With Variables

Salary	Employee	Points
$14,000	*F	3.5
18,500	C	3.25
18,000	E	3.0
17,000	A	2.5
16,500	B	2.0
15,500	G	2.0
13,000	D	0.5

*Woman

It is clear that the variables cited by the contractor are generally predictive for the men in the engineering position (because the male with the most points (C) receives the highest salary, the male with the second most points (E) receives the second highest salary, etc.) but not for the woman. The contractor should then be requested to demonstrate that the wage disparity is not based upon sex.

3-110.5 Where the contractor cites only nonquantifiable factors (for example, supervisory evaluations) as explaining apparent discrepencies in pay, the EOS should first determine (using the procedures set forth above) whether the disparities cannot be attributed to a variable or variables that would normally apply to that position (for example, seniority, years of education, etc.). If the EOS cannot explain the discrepencies through use of normally applicable variables, the contractor should be requested to demonstrate that the disparities are due to job-related factors. Refer to 41 CFR 60-3.6b(1) on informal or unscored procedures.

3-120 Audit of Grievance, Disciplinary, and Termination Procedures

3-120.1 Where a contractor's grievance or disciplinary procedures are related to potential deficiencies, the EOS should:

3-120.1a Examine the grievance procedure. Is discrimination grievable? Where jobs are covered by collective bargaining agreements, is there evidence that the union represents minorities, women, handicapped individuals and covered veterans in the same manner as other employees? Do any grievances indicate possible discriminatory practices?

3-120.1b Determine whether minorities, women, handicapped individuals and covered veterans, are disciplined at a higher rate than other employees. Is there evidence that standards are not being applied equally to all employees?

3-120.2 Where the desk audit indicates that termination procedures may be having adverse impact on minorities, women, handicapped individuals or covered veterans, the EOS should:

3-120.2a Determine how many terminations in the relevant groups were involuntary, and how many were voluntary.

3-120.2a1 Where minorities, women, handicapped individuals and/or covered veterans were terminated involuntarily, compare the offenses and penalties imposed on non-minorities and/or men, nonhandicapped or nonveterans for similar offenses. Establish whether the terminated employee was a repeat offender. Are there other factors which contributed to the termination?

3-120.2a2 Where minorities, women, handicapped individuals or covered veterans apparently are resigning at a disproportionate rate, review the personnel files of terminated employees to determine the reasons for termination. Do any of the reasons indicate possible discrimination?

3-120.2b Constructive discharges. The EOS should determine whether any resignations appear to be constructive discharges. A constructive discharge occurs when an employee resigns to escape illegal and intolerable employment practices and/or conditions e.g., intimidation, harassment, racially or sexually biased policies, admonishment for protected civil rights activities, etc.

3-120.2c Where there is evidence that minorities or women were involuntarily terminated for discriminatory reasons, or resigned due to discriminatory practices, the EOS may contact the terminated employees and obtain further details.

3-120.3 Review any other relevant grievance, disciplinary and/or termination procedures necessary to determine the contractor's compliance status.

3-130 Audit of Compliance with Guidelines or Discrimination Because of Religion or National Origin (41 CFR Part 60-50)

3-130.1 Purpose.

3-130.1a The purpose of religion or national origin guidelines is to ensure full and equal employment opportunity for members of various religious and ethnic groups, primarily but not exclusively of Eastern, Middle and Southern European ancestry, such as Jews, Catholics, Italians, Greeks and Slavic groups, who continue to be excluded from employment opportunities because of discrimination based upon their religion and/or national origin.

3-130.1b The guidelines also are intended to ensure reasonable accommodations to the religious observances and practices of employees and prospective employees. Under the guidelines, a contractor must accommodate to the religious observances and practices of an employee or prospective employee unless the contractor demonstrates that it is unable to reasonably accommodate without undue hardship on the conduct of its business. As part of this obligation, the contractor must make reasonable accommodations to the religious observances and practices of an employee or prospective employee who regularly observes Friday evening and Saturday, or some other day of the week, as his/her sabbath and/or who observes certain religious holidays during the year and who is conscientiously opposed to performing work or engaging in similar activity on such days, when such accommodations can be made without undue hardship on the conduct of the contractor's business.

3-130.2 The EOS should determine whether the contractor is in compliance with 41 CFR 60-50.2(a), with particular emphasis on middle-management and executive levels, where employment problems relative to religion and/or national origin are most likely to occur. The EOS should identify any apparent problem areas involving compliance with these requirements in the Onsite Narrative Report. Prior to conducting the onsite review, the EOS should contact civil rights organizations, the EEOC, State or local FEP agencies for data/information they may have relevant to the investigation.

3-130.2a The contractor may insist that it maintains no records and makes no inquiries concerning employees' religious or ethnic backgrounds. Thus, it may be necessary to interview certain employees themselves. For example, in investigating possible discrimination against Jews, include employees to be interviewed who were absent during the High Holiday period. Another approach may be to associate certain names with certain ethnic groups. The initial interviewees and company representatives might be able to give names of additional Jewish employees, etc. Frequently, employees and supervisors know ethnic backgrounds of their co-workers, and they should be interviewed to elicit such information.

Investigatory techniques may include, inter alia, analysis of personnel files of incumbent identified members of the religious or ethnic group(s) which is the focus of review under the guidelines, with files of similarly situated employees who have not been so identified, in order to determine whether there is evidence of discriminatory treatment, similar analyses of the folders of unsuccessful applicant members of the group under study compared with successful applicants; interviews with identified employees and applicants of this group for which information is sought as well as interviews with other employees. Local and/or national civil rights organizations may be a source for names of unsuccessful applicants and particular employees whom they believe might have useful information. The EOS's investigation should include the contractor's compliance with 41 CFR 60-1.10, pertaining to hiring and assigning employees abroad.

3-130.2b The EOS should determine the contractor's compliance with 41 CFR 60-50.2(b), which requires contractors to review their employment practices to determine whether members of the various religious and/or ethnic groups are receiving fair consideration for job opportunities. Special attention must be directed towards executive and middle management positions, where employment problems relating to religion and national origin are most likely to occur. Based upon the findings of such self-analyses, employers must undertake appropriate outreach and positive recruitment activities, such as those contained in 41 CFR 60-50.2(b). The scope of the contractor's efforts will depend upon the nature and extent of the contractor's deficiencies, if any, and the contractor's size and resources.

3-130.2b1 If the contractor has not undertaken such a review, the EOS should require the contractor to agree, through a binding conciliation agreement to undertake such a self-analysis and, where appropriate, to develop outreach and positive recruitment activities.

3-130.2b2 If the contractor has undertaken such a review, the EOS should determine when the last review was performed, how it was accomplished, whether special attention was directed at middle-management and executive positions, the specific deficiencies found, and the resulting remedial actions and procedures undertaken. The EOS should determine whether these actions meet the standards contained in 41 CFR 60-50.2(b). Any apparent problem areas should be noted in the Onsite Narrative Report.

3-130.2c The EOS should determine the contractor's compliance with 41 CFR 60-50.3, accommodations to religious observance and practice. Remember that "undue hardship" to the contractor means more than mere inconvenience. Frequently, reasonable accommodations can be made through adjustments in work schedules, postponing the performance of certain assignments, and/or using a substitute to perform needed work that cannot be postponed consistent with business necessity. Any apparent problems should be noted in the Onsite Narrative Report.

3-140 Audit of Personnel Procedures To Determine Compliance With 41 CFR Parts 60-250 and 60-741.

3-140.1 The EOS should review each aspect of the personnel process with respect to all facets of section 3-140. Document all deficiencies found under 41 CFR 60-250.5 and 6 and 60-741.5 and 6 with appropriate citations.

3-140.2 The EOS should audit the methods by which the contractor invites all covered veteran and handicapped individuals who may wish to benefit from the AAP to identify themselves. The audit shall verify that:

3-140.2a The invitation states that the identification is to be voluntarily provided and will be kept confidential.

3-140.2b Refusal to provide it will not subject the applicant or employee to any adverse treatment; and that it will be used only in accordance with the 41 CFR Parts 60-250 and 60-741.

3-140.2c The contractor consults with those who self-identify regarding proper placement and reasonable accommodations.

3-140.2d The employees are informed of their right to identify themselves at any future time, i.e., the contractor is not obligated to search the medical files of any applicant or employee to determine the existence of a handicap.

3-140.3 Proper Consideration of Qualifications. The EOS should audit the contractor's personnel practices to determine:

3-140.3a If personnel processes are reviewed to ensure fair consideration of the job qualifications of known covered veteran and handicapped applicants and employees for all job vacancies and training opportunities.

3-140.3b If the procedures follow those suggested in 41 CFR Part 60-250 Appendix B and 41 CFR Part 60-741 Appendix C. If not, the EOS should determine if the procedures used obtained substantially the same results.

3-140.3c How covered veteran and handicapped individuals were identified during the review of the personnel process.

3-140.3d If there is evidence that the military discharge information is used to reject applicants with less than an honorable discharge.

3-140.3e If medical questions are used that do not comply with 41 CFR 60-250.6(c) and 60-741.6(a).

3-140.3f If the contractor found it necessary to modify its selection or other personnel procedures, was this included in the AAP as required by 41 CFR Parts 60-250 and 60-741. If modified, were the procedures designed to facilitate a review of the implementation of this requirement by the contractor or the government.

3-140.4 Physical and Mental Qualifications

3-140.4a The EOS should audit the contractor's review of all physical or mental job qualification requirements to ensure that, to the extent, qualification requirements tend to screen out qualified handicapped individuals, they are: job related and consistent with business necessity and safety. Refer to appendix 7-A for a check list of items pertinent to physical and mental qualifications.

3-140.4a1 The EOS should also determine:

3-140.4a2 Whether the use of physical examinations are in accordance with the provisions of 41 CFR 60-250.6(c) and 60-741.6(c).

3-140.4a3 If the contractor adequately verified the job relatedness of medically disqualifying conditions (e.g., who established the requirement; were medical specialists consulted; are performance tests permitted?).

3-140.4a4 How many jobs the contractor has to review for mental and physical requirements and the number of jobs reviewed as of the date of the compliance review.

3-140.4a5 When the scheduled review of all mental and physical requirements was started and concluded.

3-140.4a6 The methods used to verify whether the mental and physical requirements are job-related and consistent with business necessity and the safe performance of the job.

3-140.4a7 How many job classifications have resulted in changed mental and physical requirements.

3-140.5 Mandatory Job Listing (MJL) Requirements. The EOS should review the contractor's compliance with the Mandatory Job Listing regulations under 41 CFR 60-250.4 which require:

3-140.5a That all suitable job openings which exist upon award of, and occur during performance of the contract, are listed at the appropriate local office, of the State Employment Service (SES). Suitable job openings include, but are not limited to, openings which occur in the following job categories:

3-140.5a1 production and nonproduction;

3-140.5a2 plant and office;

3-140.5a3 laborers and mechanics;

3-140.5a4 supervisory and nonsupervisory;

3-140.5a5 technical;

3-140.5a6 executive, administrative and professional openings which pay less than $25,000 per year; and

3-140.5a7 full time and temporary employment of more than 3 days duration, and part-time employment.

3-140.5b MJL does not include openings which the contractor intends to fill from within the organization.

3-140.5c That the contractor submit quarterly reports to the State Employment Service indicating for each hiring location:

3-140.5c1 number of individuals hired;

3-140.5c2 number of nondisabled Vietnam era veterans hired;

3-140.5c3 number of disabled Vietnam era veterans hired; and

3-140.5c4 the total number of disabled veterans hired.

3-140.5d That the contractor maintains and makes available for review related documentation of MJL and quarterly reporting activities.

3-140.5e That a contractor has taken affirmative action on all MJL referrals made by the local SES.

3-140.5f That contractor data be verified through comparison of data obtained from the appropriate local SES files.

3-140.5g Where the EOS finds that the local SES is not maintaining adequate MJL data, that data is not retrievable and that covered veterans are not properly referred to the contractor or the local SES is not familiar with, or not carrying out its regulatory requirement, a separate report of these findings should be submitted to the ARA (ESA) for transmittal to ARA (ETA) and the Deputy Assistant Secretary for Veterans Employment (ETA)(DASVE).

3-140.6 Recruitment, Hiring, Training and Promotion

3-140.6a Recruitment and Hiring. The EOS should audit the recruiting records to determine whether significant employment oriented organizations have been used, i.e., State employment services, vocational rehabilitation organizations, sheltered workshops, college placement offices, State educational organizations and organizations of and for covered veterans and handicapped persons.

3-140.6b Training and Promotion

3-140.6b1 The EOS should audit the personnel records of known and self-identified covered veterans and/or handicapped workers to determine if they received proper consideration as required by the regulations; and

3-140.6b2 The EOS should interview randomly selected known and self-identified covered veterans and/or handicapped individuals to determine if appropriate accommodations were provided where requested.

3-150 Physical inspection of the Establishment

At some point during the review, preferably shortly after the initial meeting with the contractor, the EOS should take a plant tour. A plant tour is recommended because if gives the EOS a clearer understanding of the contractor's operation, the jobs involved, and the product produced. The EOS can actually see in operation what he/she has only seen on paper during the desk audit. Taking the plant tour as early in the onsite review as possible is preferred because it provides a common base for the EOS to question and the contractor to respond during question and answer phase of the onsite review. The EOS should:

3-150.1 Inspect the establishment, assisted by a contractor representative who is familiar with its organizational structure and the classification, grades, and job titles of employees in various departments or units. Ask the guide to identify entry-level jobs.

3-150.2 Note organizational units in which minorities or women are not employed, or are employed in token numbers.

3-150.3 Note organizational units with concentrations of minorities or women. Note the working conditions of these areas compared with other job areas in the establishment.

3-150.4 Note whether adequate physical facilities exist for both sexes, e.g., toilets, shower rooms, locker rooms.

3-150.5 Note any segregated facilities.

3-150.6 Note whether OFCCP and EEOC posters, contractor's EEO policy statement and the "invitation" required in 41 CFR 250.5(d) and 741.5(c)(1) are adequately displayed. Also, note whether the AAP is available for inspection per 41 CFR 250.5(c) and 741.5(d).

3-150.7 Note whether men and women or minorities and nonminorities are performing similar work under different job titles. Note whether predominantly minority or female departments are supervised by nonminorities or men, respectively.

3-150.8 Note whether the contractor has made reasonable accommodations and accessibility for handicapped individuals, and covered veterans.

3-160 Audit of compliance with technical requirements. The EOS should ensure that the contractor:

3-160.1 Includes the "An Equal Opportunity Employer" caption in all recruitment advertisements.

3-160.2 Includes the Equal Opportunity Clause and Affirmative Action Clauses (or incorporates the clauses by reference), in all covered purchase orders and subcontracts. If the clauses are to be incorporated by reference, specific mention should be made of "Executive Order 11246, as amended, and the regulations at 41 CFR Parts 60-1 through 60-60, and Sections

402/503 and the regulations at 41 CFR Parts 60-250 and 60-741."

3-160.3 Has filed a current EEO-1 report.

3-160.4 Has notified vendors and subcontractors of their obligation to file EEO-1 reports on an annual basis.

3-160.5 Has ensured that AAPs have been developed and maintained by each establishment (applicable to review of a contractor's corporate, regional, or district headquarters only).

3-160.6 Has evidence that it has notified all covered subcontractors of their obligation to develop and implement written AAPs.

3-170 Employee interviews.

3-170.1 The EOS should interview employees as required to resolve compliance questions.

3-170.2 Refer to figure 3-2 for an Employee Interview Guide.

3-170.3 For guidance on employee interviews relating to covered veterans and handicapped individuals, religion and national origin requirements, refer to chapter 6.

3-180 Exit conference.

3-180.1 The EOS should conduct an exit conference, attended by the establishment's CEO and/or his/her designate at the conclusion of the onsite review. The EOS should accomplish the following:

3-180.1a Outline the results of the review that have been finalized and identify any compliance questions that require further analysis offsite. Obtain the contractor's explanation where evidence gathered onsite contradicts the contractor's initial statements about compliance questions. Inform establishment officials of the approximate amount of time that the offsite analysis should probably require, and how they will be notified of the results.

3-180.1b Where appropriate, draft a conciliation agreement when the results of the review are completed and establishment officials agree to all necessary corrective action. (Letters of commitment may be signed where they are permitted by chapter 8.)

3-180.1d Where the contractor maintains that it is not in noncompliance, assure the contractor that OFCCP will consider any additional evidence submitted by it in determining its compliance status.

3-180.1e Where a conciliation meeting is required, the EOS may establish a tentative date for the meeting.

3-180.2 Offsite analysis (if required). To maximize the results of the time spent onsite, the EOS should concentrate on gathering basic data that are available only at the establishment. Where time-consuming analyses are required, they should be performed offsite.

3-190 Onsite Narrative Report. The onsite narrative report will normally complete the SCRR, when attached to Parts A and B of the SCRR as described in chapter 2.

3-190.1 The onsite report will normally consist of the following narrative elements. Each element should be described in sufficient detail to support recommendations.

3-190.2 Scope of Review. The EOS should briefly state those items covered in the community survey, the onsite review and offsite analysis, if applicable. Identify the kinds of information gathered to reach conclusions, e.g., interviews conducted, file material examined, community contacts made. If the review was preceded by a desk audit which revealed deficiencies, the EOS should state the deficiencies.

3-190.3 Findings. The EOS should present an analysis of pertinent materials for each area examined. Sources of information must be identified. Where deficiencies are found, the documentation must be sufficient to support enforcement action. Where it is determined that a potential deficiency (identified in the Summary section of the desk audit) does not, in fact, exist, the documentation must be sufficient to permit a person who is unfamiliar with the case to understand the basis for this determination.

The EOS is required to provide detailed narrative information on those employment practices either identified as problem areas during the desk audit or revealed to be problem areas during the course of the onsite review.

3-190.4 Recruitment. The narrative should address the following (as appropriate):

3-190.4a List the significant employment-oriented organizations which were or could have been used as referral sources for minorities, women, handicapped individuals and covered veterans.

3-190.4b Were contacts made (both written and verbal) regarding any specific job? If so, list jobs and sources of contact.

3-190.4c Were referral sources advised that the contractor sought all qualified candidates, including female/minority/handicapped individuals and/covered veteran candidates?

3-190.4d Were specified qualifications given for each job request? If so, explain.

3-190.4e Was there sufficient time between the recruiting request and the filling of the vacancy to allow the referral source to respond?

3-190.4f List the number of referrals per each job vacancy.

3-190.4g List the sources of referrals for jobs filled through recruitment and minority/female percent of total referrals from each source.

3-190.4h Are all potential applicants allowed to complete an application form, or is there some preliminary screening?

3-190.5 Selection and Placement. The narrative should address at least the following: The EOS should examine each component of the selection and placement process to determine what part(s) of the procedure are causing the problem.

3-190.5a What is the retention period for applications for job areas under consideration?

3-190.5b Were application forms of minorities, women, handicapped individuals and covered veterans available for easy retrieval at the time of subsequent job openings?

3-190.5c Were application forms of minorities, women, handicapped individuals and covered veterans on file at the time nonminorities, males, nonhandicapped or nonveterans were hired for these job areas?

3-190.5d Identify selection criteria used to hire employees and explain how they are used, based upon interviews, position descriptions, job announcements, etc. Some examples are: Education, previous work experience, test scores, appearance height/weight requirements, draft status, arrest records, job interviews, physical or mental qualifications.

3-190.5e Were the criteria uniformly applied to all new hires, or were there minorities/women/handicapped individuals/covered veterans not selected who possessed qualifications equal to or greater than the least qualified non-minorities, males, nonhandicapped individuals or nonveterans selected? If apparently qualified or minorities/women/handicapped individuals or/covered veterans were rejected, what were the reasons for the rejections?

3-190.5f If the criteria were uniformly applied, which of the criteria most often resulted in minorities/women/handicapped individuals or/covered veterans being rejected for employment?

3-190.5g Does the contractor have a validity study to support the use of the criteria, and is the study complete with respect to the documentation requirements of 41 CFR 60-3? If so, the validity study should be sent, along with the evidence of adverse impact, to the Division of Program Analysis, NO, for offsite evaluation. If criteria have not been validated and there is adverse impact, the EOS should refer to section 3-90.

3-190.5h Has the contractor demonstrated that the job qualification requirements are job related?

3-190.5i If the selection criteria have been validated for the job areas in question, has the contractor fulfilled its obligation to utilize procedures with substantially equal validity which would have a lesser adverse impact?

3-190.6 Promotion and Transfer. The narrative should address the following (as appropriate):

3-190.6a For promotions into or within jobs where seniority does not govern:

3-190.6a1 Based upon interviews and records checks, determine and list "feeder" jobs, or job areas, for jobs into which promotions were made.

3-190.6a2 Have minorities/women/handicapped individuals/covered veterans at any time been excluded from the identified feeder jobs?

3-190.6a3 If minorities/women/handicapped individuals/covered veterans were employed in these feeder jobs at the time the promotions were made, identify criteria used to select persons for promotion.

3-190.6a4 Were the criteria uniformly applied to all persons promoted, or were there minorities/women/handicapped individuals/covered veterans not promoted who possessed qualifications, equal to or greater than the least qualified nonminorities/males/nonhandicapped individuals/nonveterans promoted. If apparently qualified minorities/women/handicapped individuals/covered veterans were not promoted, what were the reasons?

3-190.6a5 If the criteria were uniformly applied, specify the criteria most often resulting in minorities/women/handicapped individuals/covered veterans being denied promotions.

3-190.6a6 Does the contractor have a validity study to support the use of the criteria, and is the study complete with respect to the documentation requirements of 41 CFR 60-3? If so, the validity study should be sent, along with the evidence of adverse impact, to the Division of Program Analysis, NO, for offsite evaluation. If criteria have not been validated and there is adverse impact, the EOS should refer to section 3-90.

3-190.6a7 Has the contractor demonstrated that the job qualification requirements are job related?

3-190.6a8 If the criteria have been validated for the job areas in question, has the contractor fulfilled its obligation to utilize procedures with substantially equal validity which would have a lesser adverse impact?

3-190.6a9 Is there evidence of disparate treatment in the selection process? If so, describe. Refer to sections 3-90.4 and 7-38.3c3 for further guidance.

3-190.6a10 Are there job areas, other than those identified under section 3-190.6a1, which, based upon duties, experience gained, etc. should be considered to be "feeder job"? Is the minority/female/handicapped individuals/covered veteran composition of those jobs or job areas substantially different from the minority/female/handicapped individuals/covered veteran composition of the job or job areas identified under section 3-190.6a1?

3-190.6b For promotions in jobs where seniority governs or is a predominant factor:

3-190.6b1 Perform a comparative analysis of the work history records of all, or a sample of minorities/women/handicapped individuals/covered veterans who were promoted. Your comparison should include at least: hire dates and all other appropriate seniority dates, job titles and salary rates at initial placement, current job titles and salary rates. Explain your findings. Aslo determine how the present seniority system operates and whether and how seniority practices have changed over time.

3-190.6b2 Were minorities/women/handicapped individuals/covered veterans made aware of opportunities to be promoted/transfered?

3-190.7 Training. The narrative should address at least the following (as appropriate):

3-190.7a Describe training opportunities available at the facility (e.g., pre-supervisory management training, apprenticeship, tuition refund, etc.)

3-190.7b Determine criteria for participation in each training opportunity and sources of recruitment for each program. Some examples are education, previous or current experience, seniority, supervisory recommendation, bidding, self nomination, etc.

3-190.7c Were minorities/women/handicapped individuals/covered veterans made aware of training opportunities? If so, how?

3-190.7d Were criteria uniformly applied to all potential trainees, or were there minorities/women/handicapped individuals/covered veterans not selected who possessed qualifications equal to or greater than the least qualified nonminorities/men/nonhandicapped individuals/nonveterans selected? What were the reasons for the rejections?

3-190.7e If the criteria were uniformly applied, which of the criteria most often resulted in minorities/women/handicapped individuals/covered veterans being rejected for training?

3-190.7f Does the contractor have a validity study to support the use of the criteria, and is the study complete with respect to the documentation requirements of 41 CFR 60-3? If so, the validity study should be sent, along with the evidence of adverse impact, to the Division of Program Analysis, NO, for offsite evaluation. If criteria have been validated and there is adverse impact, the EOS should follow section 3-90.

3-190.7g Has the contractor demonstrated that the job qualification requirements are job related?

3-190.7h If the criteria have been validated for the job areas in question, has the contractor fulfilled its obligation to utilize procedures with substantially equal validity which would have a lesser adverse impact?

3-190.7i Is there evidence of disparate treatment in selection for training? If so, describe. Refer to sections 3-90.4 and 7-30.3c3 for further guidance.

3-190.8 Termination. The narrative should address the following (as appropriate):

3-190.8a What is the company's written policy on termination: Does it always follow it?

3-190.8b Determine reasons for involuntary terminations of minorities/women/handicapped individuals/covered veterans.

3-190.8b1 Compare work records, including attendance, of minorities/women/handicapped individuals/covered veterans to work records of nonminorities/males/nonhandicapped individuals/nonveterans in similar job areas who were not terminated.

3-190.8b2 Have minorities/women/handicapped individuals/covered veterans been discharged for reasons that have no relation to the safe and efficient performance of the job(s) in question?

3-190.8b3 Have nonminorities/males/nonhandicapped individuals/nonveterans with similar work histories not been terminated?

3-190.9 Layoff/recall. The narrative should address the following (as appropriate):

3-190.9a Are stated layoff/recall procedures being followed?

3-190.9b Are layoff/recalls having similar impact on nonminorities/males/nonhandicapped individuals/nonveterans as they are on minorities/females/handicapped individuals/covered veterans?

3-190.9c Are minorities/females/handicapped individuals/covered veterans being laid off at a significantly greater rate than nonminorities/males/nonhandicapped individuals/nonveterans?

3-190.9d Are predominantly minority/female/handicapped individuals/covered veteran units or LOPs being laid off before, or recalled after, predominantly nonminority/male/nonhandicapped/nonveteran units or LOPs?

3-190.9e Are minorities/females/handicapped individuals/covered veterans being afforded the same rights (e.g., bumping and holding on another job, transfer to another unit, etc.) as nonminorities/males/nonhanidcapped individuals/nonveterans in layoff situations?

3-190.10 Concentrations. The narrative should address the following (as appropriate):

3-190.10a Comparative analysis of plant seniority for minorities/women/handicapped individuals/covered veterans in their areas of concentration. Explain your findings.

3-190.10b Comparative analysis of qualifications at time of hire for an appropriate sample of minorities/women/handicapped individuals/covered veterans in their areas of concentration. Explain your findings.

3-190.10c Determine, if possible, what policies or practices of the company and/or the union foster the continuation of the effects of past discriminatory practices (e.g., union contract provisions, "de-facto" segregation produced by work force attitudes, etc.).

3-190.11 Conclusions. Present your final assessment of findings and what they mean in relation to EEO Program impact and contractor's compliance posture.

3-190.11a Summarize the results of your findings and their impact on the contractor's compliance status.

3-190.11b Describe corrective actions required in order for the contractor to be considered in compliance.

3-190.12 Resolution. State the result of the review. If the onsite visit confirmed or revealed problem areas, specific corrective action, including time frames, must be set forth in a conciliation agreement signed by the CEO. Include in this section any monitoring or reporting plan designed to verify fulfillment of contractor commitments (e.g., progress reports, follow-up review every six months).

3-190.13 Recommendations. Present your supporting reasons for a recommendation that the contractor be found in compliance or in noncompliance.

3-190.14 The narrative report when completed, should be attached to the SCRR (Refer to chapter 2) desk audit report, (where a desk audit was conducted) to form a complete report of the compliance review.

3-200 Notification of Compliance Review Results.

3-200.1 When the contractor's AAP is found to be acceptable and all other apparent deficiencies resolved, the contractor should be so notified.

3-200.2 The contractor should be notified of deficiencies in writing. Such letter should include:

3-200.2a Full details of the deficiencies and appropriate citation of the regulations.

3-200.2b Request for additional documentation.

3-200.2c Invitation to conciliate the issues in a conciliation meeting.

3-210 Conciliation. See chapter 8 for conciliation standards and format for conciliation agreements.

3-220 Completed review.

3-220.1 A review of a non-construction contractor (or a construction review of a contractor covered by 503/402) is complete when a notice of acceptance of AAP is issued to the contractor (Refer to figures 3-3 through 3-5).

3-220.2 The issuing authority for notices of acceptance of AAP is the:

3-220.2a ARA where a Conciliation Agreement has been obtained and/or a show cause notice issued.

3-220.2b AOD where no apparent deficiencies are found, or minor deficiencies are resolved in a letter of commitment. To ensure that no deficiencies apparently remain unidentified, and that resolutions of deficiencies in letters of commitment rather than in conciliation agreements are in accord with section 8-110, the AOD should review at least the following prior to signature:

3-220.2b1 The SCRR (parts A and B, and Onsite Narrative)

3-220.2b2 The letter of commitment (if any)

3-220.2b3 The AAP

3-220.2b4 The case file.

3-220.3 Time schedule for review completion and extension requests. Within 60 days from the date the AAP is received, the contractor's AAP must have been found to have no apparent deficiencies and the contractor notified of that fact or where required, the contractor should have been issued a 30-day show cause notice, or an amended show cause notice, as appropriate, as provided in 41 CFR 60-60.7; unless all of the deficiencies noted were resolved in a conciliation agreement containing the mandatory language regarding enforcement.

3-220.3a Where it is alleged that a conciliation agreement has been violated, a show cause notice is not issued. The contractor normally receives a 15 day notice of apparent violation. If the contractor cannot show good cause for such violation(s), the case file should be processed for formal enforcement.

3-220.3b Under extenuating circumstances and for good cause shown, the Director, OFCCP may grant an extension of time. All requests for extensions normally should be transmitted to the ARA no later than the 45th day of the 60-day compliance review process. Requests not denied by the ARA should be submitted by the RO, with justifications included, to the Branch of Field Liaison, NO, normally no later than the 50th day of the 60-day compliance review process.

3-220.4 Proposed enforcement actions. The procedures in section 8-170 should be followed where enforcement action is proposed.

3-230 Case Closing Procedures.

3-230.1 Submission of Part A of SCRR. The AO shall submit a copy of Part A of the SCRR (AMIS portion) to the RO at the end of each supply and service review. No review is considered to be complete until a copy of Part A is sent to the RO.

3-230.2 Procedures where no onsite review is conducted. (Reserved.)

3-230.3 Procedures where no show cause notice is issued. Within 60 days of receiving the original AAP and support data, the AO should:

3-230.3a For a review where no apparent deficiencies are identified:

3-230.3a1 Issue a notice of acceptance of AAP (figure 3-3) signed by the AOD, to the contractor.

3-230.3a2 Forward a copy of the notice and Part A of the SCRR to the RO, on the same date.

3-230.3b For a review where only minor deficiencies are identified and are corrected in a Letter of Commitment, the AO should:

3-230.3b1 Issue a notice of acceptance of AAP (figure 3-4) signed by the AOD, to the contractor.

3-230.3b2 Forward a copy of the notice of acceptance, a copy of Part A of the SCRR, and a copy of the letter of commitment to the RO, on the same date.

3-230.3b3 The DRO should normally review letters of commitment within 10 working days of receipt. If matters are improperly resolved in the letter of commitment, the DRO should recommend that the ARA rescind the notice of acceptance.

3-230.3c For a review where major deficiencies are identified and voluntarily resolved in a conciliation agreement without a show cause notice:

3-230.3c1 The AO should forward to the RO for the signature of the ARA the proposed notice of acceptance of AAP (figure 3-5) and the proposed conciliation agreement; the support data specified in Section 8-130.6b4; and Part A of the SCRR.

3-230.3c2 The DRO and ARA should review the acceptance notice, and process the conciliation agreement as specified in section 8-130.6.

3-230.4 Procedures where a show cause notice is issued.

3-230.4a For a review where major deficiencies are identified; a show cause notice normally is issued; and a conciliation agreement negotiated:

3-230.4a1 The AO should forward to the RO for signature of the ARA: a proposed show cause recision letter (figure 8-11) and the proposed conciliation agreement; the support data specified in section 8-130, and Part A of the SCRR.

3-230.4a2 The DRO and ARA should process the proposed conciliation agreement and show cause recision letter as specified in sections 8-100 and 8-130.

3-230.4b If enforcement is proposed, the AO should submit to the RO Part A of the SCRR and the information specified in section 8-170.

3-230.5 Submission of conciliation agreements, letters of commitment, and support data to the NO. ROs must submit conciliation agreements, letters of commitment, and support data to the Branch of Conciliation Review, NO, as required by the Director, OFCCP. Refer to chapter 8.

1. Attachment A

   Describe all deficiencies found in the desk audit of the AAP, using specific citations from the regulations

2. Attachment B

   From figure 3-1A, list the additional information needed onsite to respond to questions raised during the desk audit:

   a) to determine the contractor's compliance status, and

   b) to complete the SCRR.

Figure 3-1A, Attachments A and B to Notice of Onsite Review Format

Guide for Identification of Additional Data for Onsite Review

The following are suggested items for consideration during the onsite review. The EOS should determine which are necessary to complete the compliance review. These items should be listed on a separate Attachment to the Notice of Onsite Review Format.

NOTE: The EOS should exercise his/her professional judgment in determining the number of years to be covered by a request for data. As a general rule, the three to four year period suggested below is the minimum period necessary to thoroughly analyze employment patterns for discrimination and/or its continuing effects, adverse impact, disparate treatment, etc. Among the factors to be considered in deciding how much data to request are the following:

a) Number of personnel transactions per year. For example, if the contractor averages only ten terminations per year, it may be necessary to examine eight or ten years of data on terminations to draw meaningful conclusions. On the other hand, if the contractor receives 10,000 applications a year, it may be necessary and sufficient to adopt a sampling technique, such as requesting applications for every other quarter or every third month over a three or four year period.

b) Form in which records are maintained. The request might cover a greater period of time if information pertaining to a number of personnel transactions is maintained in a consolidated list form (e.g., a new hire list) rather than on individual sheets of paper (e.g., an alphabetical file of applications forms).

Employee Roster

A listing of all employees tabulated by departments, including a key to any codes used in the roster, showing for each employee:

Name, sex, race/national origin
Date of hire
Highest year of school completed
Current job title, line of progression (if any) and applicable EEO-1 job category
Salary or pay rate, total annual earnings
Totals of employees, minorities, and females in each department

Applicants

A chronological list of applicants for the last three or four years showing the following:

Date of application
Name, sex, race/national origin
Highest year of school completed

Figure 3-1B

Recruitment source
Job applied for
Department referred to and date of hire, reason for rejection, or present status of application
Preemployment testing data (date tests given, scores attained and results)

Hires

A list of all hires by departments for the last three or four years showing the following:

Name, race/national origin, and sex
Date of hire
Job title, department, line of progression, and pay rate
Total of each minority group and of all females

Terminations

A listing of separations by departments for the last three of four years showing:

Name, race/national origin, and sex
Job title, department, line of progression, pay rate
Date of original hire
Date of termination and reason
Total of each minority group and of all females

Promotions

A list of all promotions for the last three or four years by department, showing:

Name, sex, race/national origin
Date of promotion
Previous and present job title, department, line of progression, rate of pay, and department
Totals of each minority group and of all females

Training

A list of training programs available, such as apprenticeship, executive development, or tuition assistance.

A list of all employees participating in training for the last three or four years showing for each training program:

Name, sex, race/national origin
Department
Completed or in progress
Prospects for promotion

Selection Procedures

A description of all tests, including written, oral, and performance tests, which are used for hiring, training, promotion, or other purposes. List names of tests, purposes for which used, and cutoff scores.

For each job, a list of all selection procedures and requirements other than the tests described above, such as education, experience, height and weight, etc.

A copy of each of the above tests, test manuals and scoring keys. Determine if tests are used in the manner described in the manual (e.g., are the same cutoff scores used; what weight does the company assign to the tests, etc.).

A copy of all validation studies.

A list of employees tested for the last three or four years, showing:

Name, sex, race/national origin
Highest year of school completed
Date of hire
Date of test
Reason for test (e.g., promotion, training)
Test scores
Results

Interviews

A chronological list of the applicants interviewed for the last three of four years showing:

Name, race, and sex
Date of interview
Job and department for which interviewed
Interviewer (include all interviews - initial and in-depth)
Disposition (results of interview, e.g., hired, promoted, or reason for rejection) date of hire, job hired units, etc.).

Recruitment

A description of the college recruitment program for the last three or four years, if any. Show schools visited, disciplines for which recruiting and number of hires. List interviews and show for each applicant name, race, sex, major field, plant visit, job offer, hires, or other disposition.

Description of recruitment and outreach efforts, including lists of sources contacted, dates of contact, person referred (name, race, sex), and other relevant information.

Seniority and Organization

Organization chart showing all departments or similar organizational units and subunits.

A listing of company job titles for each EEO-1 job category.

Copies of all current union contracts, modifications and supplements

Copies of seniority lists for any or all of the following types of seniority that may be applicable:

Job classification seniority

Unit group or line of progression seniority

Department or division seniority

Plant or company seniority

Show on each list the:

name of employee
current job title
date of hire
date of entry into seniority entity
all applicable seniority dates
race/national origin and sex

Interviewer: ____________

Suggested Employee Interview Guide

Company ____________ Date of Interview ____________

Name ____________ Home
Address ____________ Phone No. ____________

(If none, where can person be reached ____________.

Name: ____________ Telephone No. ____________ What is relationship of that person to employee, e.g., mother, friend, etc.? ____________

Job (current) ____________ At time of hire: ____________

Dept. (current) ____________ At time of hire: ____________

Date of initial hire: ____________

1. Education or training

   a) At time of hire ____________

   b) Current ____________

   (If different, when was additional education obtained?) ____________

2. Work experience ____________

3. When you were first hired, what job, if any, did you apply for? ____________

   If employee applied for a certain job, was he/she assigned to it when hired? ____________

4. How did you learn about the job? ____________

5. What was the application procedure? ____________

   ____

Figure 3-2

6. Were you interviewed? ______________________________

a) By whom? ______________________________

b) How long did the interview last? ______________________________

c) What were you told during the interview? ______________________________

____

7. Did you have to take any test or tests before you were hired? __________

____

a) What tests? ______________________________

b) What were the results? ______________________________

8. How do people learn about and get promotions ? ______________________________

____

9. Do you understand the company's promotion and transfer policies? Yes_____ No _____

a) What is the promotion policy? ______________________________

____

____

b) What is the transfer policy? ______________________________

____

c) Are the job openings posted? If so, what is the procedure?

____

____

d) Are employees allowed to bid? What kind of seniority do you need to bid? ______________________________

____

____

e) Have you ever bid on other jobs? Which ones? When? ________________

(1) If so, were you successful? ________________

If not, why not successful? ________________

f) When was the first chance you had to bid out of your first job?

g) If you have not bid on other jobs - why not? ________________

10. Have you ever been disqualified once you were awarded a job? ________________

11. a) Do you know if people have to take a test to be promoted?

If so, what test(s)? ________________

b) Have you ever taken a test(s)? ________________

c) Which one(s), and when? ________________

d) What were the results? ________________

12. Have you ever applied for or been offered a trainee job (helper, apprentice, etc.)? If so, what, when, etc.? ________________

13. Has the company ever told you to go to school to qualify for promotion? If so, who, when, what job, etc.? ________________

14. Why are there so few minorities (women) working here? ________________

15. Do you know of any minorities (women) who applied but were rejected? ______________________________

Do you know why? ______________________________

16. Do you think the company is fair to minorities (women)? What makes you think so? ______________________________

____

17. Do you know if the company has discriminated against any other minority (women)? If so, who, when, how, etc.? ______________________________

____

____

18. Has the company ever asked you to refer anyone for employment? __________

____

19. Do you know of anyone who has taken maternity leave? Who, when? Do you know what happened to that persons seniority status while on leave? ______________________________

____

____

20. Do you know what the company's EEO policy is? ______________________________

____

Ms. Doris Dorite
President
Dorite Industries, Inc.
290 Front Street
Nowhere, Pennsylvania 15219

Dear Ms. Dorite:

Our compliance review of your firm's equal employment opportunity policies and practices has been completed.

We have found no apparent deficiencies in your affirmative action program, so the program is being accepted. This acceptance may be modified by the Assistant Regional Administrator, or by the Director, OFCCP, within 45 days of his/her receipt of this letter.

This determination does not preclude a subsequent finding of noncompliance should your firm deviate substantially from the commitments set forth in the affirmative action plan.

Sincerely,

(AOD)

Figure 3-3 Notice of review completion format, no deficiencies found (Supply and Service)

299-843 O - 79 16

Ms. Doris Dorite
President
Dorite Industries, Inc.
290 Front Street
Nowhere, Pennsylvania 15219

Dear Ms. Dorite:

Our compliance review of your firm's equal employment opportunity policies and practices has been completed.

Subject to the implementation of commitments detailed in your letter of commitment dated (day, month, year), your affirmative action program is accepted. This acceptance may be modified by the Assistant Regional Administrator. In addition, the agreement is subject to approval by the Director, OFCCP. If the Director takes no action on it within 45 days of his/her receipt of the agreement, it shall de deemed approved.

This determination does not preclude future determinations of noncompliance based on a finding that the commitments are not sufficient to achieve compliance.

Sincerely,

(AOD)

Figure 3-4 Notice of review completion format, minor deficiencies resolved in letter of commitment (Supply and Service)

Ms. Doris Dorite
President
Dorite Industries, Inc.
290 Front Street
Nowhere, Pennsylvania 15219

Dear Ms. Dorite:

Our compliance review of your firm's equal employment opportunity policies and practices has been completed.

Subject to the implementation of commitments detailed in our conciliation agreement dated (day, month, year), your affirmative action program is accepted. This acceptance may be modified by the Assistant Regional Administrator. In addition, the agreement is subject to approval by the Director, OFCCP. If the Director takes no action on it within 45 days of his/her receipt of the agreement, it shall be deemed approved.

This determination does not preclude future determinations of noncompliance based on a finding that the commitments are not sufficient to achieve compliance.

Sincerely,

(ARA)

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4-10 Purpose and applicability.

4-10.1 This chapter explains the responsibilities of contracting agencies and the obligations of construction contractors under the Executive Order and the regulations. It establishes standard procedures for conducting compliance reviews of construction contractors. It also gives suggested criteria for evaluating contractors' efforts to comply with their affirmative action obligations.

4-10.2 This chapter applies to contractors and subcontractors with Federal or federally assisted construction contracts and subcontracts in excess of $10,000, and to contruction contractors that perform work for nonconstruction contractors that is necessary, in whole or in part, to the performance of the covered nonconstruction contract. Goals, timetables, and affirmative action obligations apply to the contractor's entire onsite construction work force, including projects which are neither Federal nor federally assisted in the covered area.

NOTE: Certain construction contractors may be covered by the basic non-discrimination requirements of the executive Order and by many of the Secretary of Labor's implementing regulations but not by the rules contained in 41 CFR Part 60-4. This situation would arise, for example, if a contractor had several Government contracts, none of which individually exceeded $10,000 but which totaled in excess of $10,000. (Compare 41 CFR 60-1.5 (a) (1) and 60-4.1.)

4-10.3 The 41 CFR Part 60-4 procedures for notice and reporting are required to be followed by Federal contracting officers and all applicants, grantees and subgrantees in solicitations for and awards of Federal or federally assisted construction contracts and subcontracts subject to the Executive Order.

4-10.4 By operation of the Order (41 CFR 60-1.4 (e), 60-4.9) the EEO Clause, the Notice, and the Specifications are deemed to be a part of every solicitation, contract, or subcontract whether or not they are physically incorporated in the documents.

4-20 Construction compliance: Background information.

4-20.1 The Executive Order requires Federal and federally assisted construction contractors and subcontractors to take affirmative action to ensure that applicants are employed, and persons are treated during employment, without regard to their race, color, religion, sex, or national origin.

4-20.2 The regulations that apply solely to construction compliance are contained in 41 CFR Part 60-4. However, specific provisions of 41 CFR Parts 60-1, 60-3, 60-20, 60-30, and 60-50 also apply to construction contractors and subcontractors.

4-20.3 41 CFR Part 60-4 details affirmative actions contractors must take to comply with their contractural obligations. A notice published pursuant to Part 60-4, effective May 8, 1978, established goals and timetables for women in construction for the first time. Previously existing minority goals were continued on a temporary basis (until new standards and goals are established). Refer to 43 Federal Register 14900.

4-20.4 The Federal Register Notice established national goals for participation by women in the construction work force (3.1, 5, and 6.9 percent, respectively, for the three annual periods from April 1, 1978 to March 31, 1981). Existing approved Hometown Plans were modified by the regulations but were continued, provided that Hometown Plan officials adopt the goals and timetables, at least equal to those established in the Federal Register Notice, for hiring women and include women on the Hometown Plan Administrative Committees. Imposed plans, Special Bid Conditions and the Federal EEO Bid Conditions were discontinued and replaced by:

4-20.4a The Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (41 CFR 60-4.2 (d)), which contains the goals and timetables for minority and female utilization applicable in the geographical area covered by the Notice; and

4-20.4b The Standard Federal Equal Employment Opportunity Construction Contract Specifications (41 CFR 60-4.3), which detail the specific actions required of every covered contractor and subcontractor.

4-30 Responsibilities of contracting agencies under 41 CFR Part 60-4.

4-30.1 General. Federal contracting agencies, under the regulations, are required to ensure that:

4-30.1a The Equal Opportunity Clause (41 CFR 60-1.4 (a)) is physically included in all nonexempt Federal construction contracts and subcontracts.

4-30.1b The Equal Opportunity Clause (41 CFR 60-1.4 (b)) is physically included in all nonexempt federally assisted construction contracts and subcontracts.

4-30.1c The Notice (41 CFR 60-4.2 (d)) and Specifications (41 CFR 60-4.3 (a)) are included in all Federal and federally assisted construction contracts and subcontracts in excess of $10,000 to be performed in geographical areas designated by the Director, OFCCP, under 41 CFR 60-4.6, and in construction subcontracts in excess of $10,000 necessary in whole or in part to the performance of Federal contracts and subcontracts covered by the Executive Order.

4-30.1d The appropriate goals and timetables are inserted in the Notice by the contracting officer or applicant. These goals and timetables were issued under 41 CFR 60-4.6. Refer to FR 14900, Appendices A and B. (However, for a contract covered by Special Bid Conditions approved before May 8, 1978, the goals and timetables set forth in such bid conditions should be used.)

4-30.2 Notification of contractors and subcontractors. The contracting agency must ensure that before beginning construction on any covered contract, each prime contractor and subcontractor is notified of the specific reporting and recordkeeping requirements to demonstrate compliance with the Notice, the Specifications, and the EEO Clause. If OFCCP personnel discover that contracting agencies are not performing some or none of these functions, they should contact the Branch of Procurement Coordination, NO, and give a full statement of the facts so that the matter can be corrected. Each first tier subcontractor is to notify the lower-tier subcontractors of their obligations. Whenever possible, a preconstruction conference will be conducted by the contracting agency with the prime contractor and all known subcontractors to ensure full understanding of these requirements.

4-30.2a All contractors that are signatory to and participating in an approved Hometown Plan and using signatory craft union locals are to be informed that they:

4-30.2a1 Must comply with the provisions of the plan and the EEO Clause, including compliance with 41 CFR 60-4.5.

4-30.2a2 Can be removed from the Plan, and have sanctions imposed, for failing to take good faith effort to individually meet their goals and timetables under the Plan, for failing to comply with affirmative action requirements, or for otherwise violating the EEO clause.

4-30.2a3 Must submit CC 257 Employment Utilization Reports monthly to the Hometown Plan Administrative Committee, which will report separately for each contractor to the appropriate RO. Refer to figure 4-5 for filing instructions.

4-30.2a4 Must submit with the CC 257 report a listing of all current and projected Federal, federally assisted, and non-Federal contracts and subcontracts currently being performed or projected to be performed in the Plan area. The list of contracts must include the Federal contracting agency (where applicable), contract number, location, dollar amount, and start or projected start/completion dates. Subsequent to the initial listing, only new or terminated contracts should be reported.

4-30.2b Contractors not currently participating in a Hometown Plan are to be informed that they must submit monthly a CC 257 Report (figure 4-4) to the appropriate AO reflecting their aggregate workforce by trade in each construction trade and an attached list of all current and projected federally funded or assisted and all non-Federal contracts and subcontracts. The list of contracts must include the Federal contracting agency (where applicable), contract number, location, dollar amount, and start or projected start/completion dates. After the initial report, only new contracts received and current contracts completed should be reported.

4-40 Responsibilities of contractors.

4-40.1 General obligations.

4-40.1a Contractors bidding on nonexempt Federal or federally assisted construction contracts and subcontracts should carefully review the requirements detailed in the EEO Clause (Section 202 of the Executive Order) (41 CFR 60-1.4), and the Notice of Requirement for Affirmative Action To Ensure Equal Employment Opportunity (the "Notice"), 41 CFR 60-4.2(d); and the Standard Federal EEO Construction Contract Specifications, 41 CFR 60-4.3(a). Contractors participating in an approved Hometown Plan should review the provisions of the Plan, the Specifications, and 41 CFR 60-4.5.

4-40.1b Following award of a covered contract or subconctract, the contractor is bound by the requirements of the EEO Clause, the goals and timetables in the Notice, and the affirmative action obligations in the Specifications. The contractor must be able to demonstrate compliance with these requirements, including the designation of a high-level official to be responsible for its EEO program.

4-40.2 Notification of subcontractor.

4-40.2a Each prime contractor and subcontractor must include the Notice, Specifications, and the EEO Clause in all advertisements and solicitations for covered construction contracts and subcontracts and in all resulting contracts and subcontracts (Advertisements may make reference to the EEO Clause instead of printing it verbatim).

4-40.2b Each prime contractor and subcontractor is required to provide written notice to each subcontractor of the specific reporting and recordkeeping requirements, the EEO Clause, the Notice, and the Specifications. Within 10 days of award of a subcontract, contractors are required to notify the appropriate AO of each subcontractor's name, address, telephone number, employer ID, estimated value of contract, estimated start and completion dates, the geographical area in which the work is to be performed, and the crafts that will perform work on the subcontract.

4-40.3 Hometown Plans.

4-40.3a Contractors participating in Hometown Plans, either individually or through associations, must individually make every good faith effort to comply with the requirements of the Plan (including goals and timetables) on *all* work in the Plan area and for those trades that have unions participating in the Plan. Contractors must be able to demonstrate and document their participation in and individual compliance with the Hometown Plan. Each contractor or subcontractor participating in the plan is required to comply with the EEO Clause, and to make a good faith effort to individually meet its goals and timetables under the Plan.

4-40.3b While the construction regulations continue the use of Hometown Plans as a means for covered contractors to meet the goals and affirmative action requirements of the Executive Order, the regulations make clear that contractors are individually responsible for their performance and cannot use the accomplishments of other contractors in the Plan to excuse their individual lack of performance. Contractors must commit themselves to make every effort to meet their goals and timetables under the Plan. *At a minimum, a contractor's goals will be the work hour goals for minority and female utilization established for all covered contractors with contracts and/or subcontracts in the geographical area covered by the Notice*. The contractor's compliance will be based on its individual effort to meet these goals and its adherence to the Plan. Hometown Plans are systems for identifying, upgrading, and retaining minorities and women. Contractors failing to use this system, or failing to take other good faith actions required by 41 CFR Part 60-4 to meet these minimum standards, who do not enter into a conciliation agreement which includes, where appropriate, affected class relief and/or makeup goals and timetables, will be subject to enforcement action. Compliance reviews will be conducted where there is reason to believe that signatory contractors are not making good faith effort to individually meet Plan goals, or are otherwise in noncompliance with the Plan.

40.3c The Administration Committee may recommend removal of contractors from the Plan or initiation of enforcement action for noncompliance with Plan requirements. OFCCP may follow the recommendations of the Administrative Committee. OFCCP may also initiate enforcement action directly where a contractor violates the EEO Clause or otherwise fails to make good faith effort to individually meet the goals of the Plan, etc.

4-40.3d If a contractor is not participating in an approved Hometown Plan or is removed from the Plan, it must comply with the Specifications and with the goals and timetables for the appropriate area detailed in the Notice regarding trades it uses. A contractor is not participating in a Hometown Plan for a particular trade if it:

4-40.3d1 Ceases to be a signatory to a Hometown Plan covering that trade.

4-40.3d2 Is signatory to a Hometown Plan for that trade but is not party to a collective bargaining agreement for that trade.

4-40.3d3 Is signatory to a Hometown Plan for that trade but is party to a collective bargaining agreement with a labor union that is not signatory to the same Hometown Plan for that trade.

4-40.3d4 Is signatory to a Hometown Plan for that trade, and is party to a collective bargaining agreement with a union for that trade, but the two have not jointly executed a specific commitment to minority and women's goals and timetables incorporated in the Hometown Plan for that trade.

4-40.3d5 Is participating in a Hometown Plan for that trade that has been disapproved by OFCCP.

4-40.3d6 Is signatory to a Hometown Plan for that trade and is party to a collective bargaining agreement with a union for that trade, but the union and contractor have failed to make a good faith effort to comply with their obligations under the Hometown Plan for that trade.

4-40.3e Contractors participating in Hometown Plans must be able to demonstrate their participation and document their individual compliance with the Plan and with 41 CFR 60-4.5.

4-40.4 Contractors subject to the Notice and Specifications. Contractors not participating in approved Hometown Plans (including contractors participating in Hometown Plans but using crafts not participating in the Plans) are required to:

4-40.4a Comply with the EEO Clause.

4-40.4b Make good faith effort to meet the goals and timetables for minority and female participating for the area specified in the Notice.

4-40.4c Implement the affirmative action obligations in the Specifications (41 CFR 60-4.3) and provide documentary evidence of their efforts.

4-40.4d File monthly, beginning with the effective date of the contract, workforce utilization reports (CC 257) reflecting the prime contractor's and each subcontractor's aggregate workforce (include workers on all projects, Federal and non-Federal) in each craft in the area specified in the Notice. Each contractor must submit with its initial report a one-time list of its federally funded or assisted contracts and subcontracts in the area covered by the Notice, by agency, contract number, location, estimated dollar value, percent completed, projected completion date, and a list of all non-Federal construction contracts. In succeeding months, the contractor must submit with its CC 257 a report on new contracts received and completed contracts. (Note: Failure to submit valid Form 257 reports may result in enforcement action).

4-40.4d1 The AO should log in the CC 257 reports (Refer to Section 4-40.6), review and check the contractor files to verify that the required contractors are reporting.

4-40.4d2 The AO should use locally developed form letters approved by the ARA to notify contractors that they are not reporting, not on time, or not reporting correctly.

4-40.4e Provide to OFCCP access for inspection and copying of its books, records, and accounts including access to all covered construction sites, and provide to OFCCP documentary evidence of its affirmative action efforts.

4-50 Compliance and enforcement procedures.

4-50.1 Compliance review procedures. The EOS should notify the contractor of the review. This should be done by certified mail, return receipt requested, sufficiently in advance of the date of the review. The notification should specify that the contractor is to make, for example, the following available for inspection and copying during the review:

4-50.1a Books, records, payrolls, accounts, and other relevant documents, including a list, separated by construction project, of all minority and female employees who worked during the period to be reviewed.

4-50.1b Documentary evidence of the implementation of each of the specific affirmative action standards set forth in the Specifications.

4-50.1c Evidence, as applicable, demonstrating that the contractor has not violated the EEO Clause.

4-50.2 Conduct the compliance review. The EOS should normally use the Standard Compliance Review Format, Appendix 4A. Where onsite visits are not made to at least one of the contractor's work sites, reasons for not doing so should be documented in the report. Whether or not onsite visits are made, the EOS should normally:

4-50.2a Thoroughly check certified payroll records to verify reported hours, determine uniformity of employee utilization and equity of overtime distribution.

4-50.2b Analyze documentation of implementation of affirmative action standards, determining whether the contractor has complied.

4-50.2c Interview employees as necessary to verify information presented by the contractor, especially information on compliance with affirmative action standards.

4-50.2d Determine whether the contractor has met the following standards for compliance:

4-50.2d1 Made specific good faith efforts to meet established utilization goals.

4-50.2d2 Documented its compliance with the specific requirements of the Specifications and its implementation of affirmative action standards. Refer to Appendix 4B.

4-50.2d3 Have no outstanding allegations of violations of the EEO Clause.

4-50.3 Conduct an exit conference with the contractor. Upon completion of the review, the EOS should meet with the contractor to explain the findings. At the exit conference, the contractor should normally be given a copy of the Deficiency

Citation or similar document (see Appendix 4A, Attachment A) itemizing any deficiencies found. If a Deficiency Citation is not given to the contractor at the exit conference, it should normally be provided within five working days of the conference.

4-50.4 Completed Review. A construction review is complete when a notice of review completion is issued to the contractor. Refer to figures 4-1 through 4-3.

4-50.5 Issuing authority. Authority to issue notices of review completion is with the:

4-50.5a AOD where no apparent deficiencies are found, or minor deficiencies are resolved in a letter of commitment, as a result of a compliance review.

4-50.5b ARA where a conciliation agreement is obtained or where appropriate a show cause notice is issued, as the result of a compliance review.

4-50.6 Where a contractor has Executive Order deficiencies (such as, e.g., failure to use good faith effort in attempting to meet minimum utilization goals, or failure to demonstrate adequate implementation of its affirmative action obligations), cannot show good cause for its deficiencies, and fails to remedy those deficiencies in a conciliation agreement, which includes, where appropriate, make up goals and timetables and affected class relief, the matter will be processed for enforcement. Refer to chapter 8.

4-60 Hometown Plan audit procedures. Although the Hometown Plan Administrative Committee has some responsibility for monitoring and evaluating performance of contractors who are signatories to Hometown Plans, the OFCCP has primary responsibility for monitoring, evaluation performance, and initiating enforcement action against contractors and crafts who are signatory to Hometown Plans. The procedures in Appendix 4C are to be followed by the Hometown Plan Administrative Committee in conducting, evaluating, and reporting the results of audits of crafts participating in Hometown Plans.

4-60.1 AOs should conduct compliance reviews of individual contractors which are signatories to Hometown Plans.

4-70 Hometown Plans: Removal and reinstatement of contractors.

4-70.1 Removal and/or other action. Signatory contractors are monitored and evaluated by Hometown Plan Administrative Committees, as described in Appendix 4C, and also by OFCCP under section 4-60.1. When notified by an Administrative Committee that a contractor has failed to adequately participate in a Plan, by, for example, failing to take good faith effort to meet its individual goals, OFCCP shall review the evidence on which the Committee's determination was based and determine whether to:

4-70.1a Remove the contractor from the Plan and/or

4-7-.1b Initiate a compliance review which may result in the initiation of enforcement action (Note: OFCCP may also, on its own initiative and without referral from a Hometown Plan Administrative Committee, initiate any of the above or other actions.)

4-70.2 Reinstatement. Crafts and contractors removed from Plans must make written requests for reinstatement to the Administrative Committee. The Committee must review all such requests and if it concurs, forward them to OFCCP with a recommendation for reinstatement. Where such recommendations are received, OFCCP shall conduct a compliance review to ascertain whether the contractor should be reinstated. If deficiencies are found, and the contractor cannot show good cause for them, the craft and/or contractor will not be reinstated, and enforcement action may be taken.

4-80 Hometown Plans: Requests for revisions or renewals. All requests for approval of Hometown Plans, renewal of existing Plans, changes in goals and timetables, or changes in geographic jurisdiction of Plans must be submitted by the Administrative Committee to OFCCP with appropriate justification, including adequate documentation for the request. OFCCP should evaluate each request, obtain additional information where necessary, and notify the Committee of its decision.

4-90 Hometown Plans: Recision of approval. On determing that a Hometown Plan no longer constitutes effective affirmative action, OFCCP will rescind approval of the Plan and place all contractors under the obligations contained in the Notice (41 CFR 60-4.2) and the Specifications (41 CFR 60-4.3) for the covered area.

Mr. John Scott
President
B & V Construction Company
450 Newton Avenue
Somewhere, Pennsylvania 16543

Dear Mr. Scott:

Our compliance review of your company's equal employment opportunity policies and practices has been completed. It covered your aggregate onsite construction workforce in the ____________________(HTP) (SMSA)(Economic Area).

It is the determination of this office that there are no apparent violations of the requirements of our regulations at 41 CFR Chapter 60, in the area indicated above. This determination may be modified by the Assistant Regional Administrator, or the Director, OFCCP, within 45 days of his/her receipt of this letter.

Sincerely,

(AOD)

Figure 4-1 Notice of review completion format, no deficiencies found (Construction)

Mr. John Scott
President
B & V Construction Company
450 Newton Avenue
Somewhere, Pennsylvania 16543

Dear Mr. Scott:

Our compliance review of your company's equal employment opportunity policies and practices has been completed. It covered your aggregate onsite construction workforce in the ______________________(HTP) (SMSA)(Economic Area).

Subject to the implementation of commitments detailed in your letter of commitment dated (day, month, year), it is the determination of this office that there are no further apparent violations of the requirements of our regulations at 41 CFR Chapter 60, in the area indicated above. This determination may be modified by the Assistant Regional Administrator. In addition, the agreement is subject to approval by the Director, OFCCP. If the Director takes no action on it within 45 days of his/her receipt of the agreement, it shall be deemed approved.

This determination does not preclude future determinations of noncompliance based on a finding that the commitments are not sufficient to achieve compliance.

Sincerely,

(AOD)

Figure 4-2 Notice of review completion format, minor deficiencies resolved in letter of commitment (Construction)

Mr. John Scott
President
B & V Construction Company
450 Newton Avenue
Somewhere, Pennsylvania 16543

Dear Mr. Scott:

Our compliance review of your company's equal employment opportunity policies and practices has been completed. It covered your aggregate on site construction workforce in the ____________________(HTP) (SMSA)(Economic Area).

Subject to the implementation of commitments detailed in our conciliation agreement dated (day, month, year), it is the determination of this office that there are no further apparent violations of the requirements of our regulations at 41 CFR Chapter 60, in the area indicated above. This determination may be modified by the Assistant Regional Administrator. In addition, the agreement is subject to approval by the Director, OFCCP. If the Director takes no action on it within 45 days of his/her receipt of the agreement, it shall be deemed approved.

This determination does not preclude future determinations of noncompliance based on a finding that the commitments are not sufficient to achieve compliance.

Sincerely,

(ARA)

Figure 4-3 Notice of review completion format, major deficiencies voluntarily resolved through conciliation agreement (Construction)

U. S. DEPARTMENT OF LABOR
Employment Standards Administration, OFCCP

MONTHLY EMPLOYMENT
UTILIZATION REPORT

This report is required by Executive Order 11246, Sec. 203. Failure to report can result in contracts being cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts of federally assisted construction contracts.

1. COVERED AREA (SMSA OR EA)

2. EMPLOYER'S I.D. NO.

3. CURRENT GOALS
MINORITY ______
FEMALE ______

4. REPORTING PERIOD
FROM ______
TO ______

NAME AND LOCATION OF CONTRACTOR

FEDERAL FUNDING AGENCY

5. CONSTRUCTION TRADE	Classifications	6. WORK HOURS OF EMPLOYMENT (Federal & Non Federal) 6a. TOTAL ALL EMPLOYEES BY TRADE		6b. BLACK (Not of Hispanic Origin)		6c. HISPANIC		6d. ASIAN OR PACIFIC ISLANDERS		6e. AMERICAN INDIAN OR ALASKAN NATIVE		7. MINORITY PERCENTAGE	8. FEMALE PERCENTAGE	9. TOTAL NUMBER OF EMPLOYEES		10. TOTAL NUMBER OF MINORITY EMPLOYEES	
		M	F	M	F	M	F	M	F	M	F			M	F	M	F
	Journey worker																
	APPRENTICE																
	TRAINEE																
	SUB-TOTAL																
	Journey worker																
	APPRENTICE																
	TRAINEE																
	SUB-TOTAL																
	Journey worker																
	APPRENTICE																
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	Journey worker																
	APPRENTICE																
	TRAINEE																
	SUB-TOTAL																
	Journey worker																
	APPRENTICE																
	TRAINEE																
	SUB-TOTAL																
TOTAL JOURNEY WORKERS																	
TOTAL APPRENTICES																	
TOTAL TRAINEES																	
GRAND TOTAL																	

11. COMPANY OFFICIAL'S SIGNATURE AND TITLE

12. TELEPHONE NUMBER (Include area code)

13. DATE SIGNED

PAGE ______ OF ______

OMB APPROVAL NO. 44-R1396

FORM CC-257 (Rev. 9/78)

Figure 4-4

INSTRUCTIONS FOR FILING MONTHLY EMPLOYMENT UTILIZATION REPORT (CC-257)

The Monthly Utilization Report is to be completed by each subject contractor (both prime and sub) and signed by a responsible official of the company. The reports are to be filed by the 5th day of each month during the term of the contract, and they shall include the total work-hours for each employee classification in each trade in the covered area for the monthly reporting period. The prime contractor shall submit a report for its aggregate work force and collect and submit reports for each subcontractor's aggregate work force to the Federal compliance agency that has Executive Order 11246 responsibility. (Additional copies of this form may be obtained from the U.S. Department of Labor, Employment Standards Administration, OFCCP's regional office for your area.)

Compliance Agency	U.S. Government agency assigned responsibility for equal employment opportunity. (Secure this information from the contracting officer.)
Federal Funding Agency	U.S. Government agency funding project (in whole or in part). If more than one agency, list all.
Contractor	Any contractor who has a construction contract with the U.S. Government or a contract funded in whole or in part with Federal funds.
Minority	Includes Blacks, Hispanic , American Indians, Alaskan Natives, and Asian and Pacific Islanders - both men and women.
1. Covered Area	Geographic area identified in Notice required under 41 CFR 60-4.2.
2. Employer's Identification Number	Federal Social Security Number used on Employer's Quarterly Federal Tax Return (U.S. Treasury Department Form 941).
3. Current Goals (Minority & Female)	See contract Notification.
4. Reporting Period	Monthly, or as directed by the compliance agency, beginning with the effective date of the contract.
5. Construction Trade	Only those construction crafts which contractor employs in the covered area.
6. Work-Hours of Employment (a-e)	a. The total number of male hours and the total number of female hours worked by employees in each classification. b-e. The total number of male hours and the total number of female hours worked by each specified group of minority employees in each classification.
Classification	The level of accomplishment or status of the worker in the trade (Journey Worker, Apprentice, Trainee).
7. Minority Percentage	The percentage of total minority work-hours of all work-hours (the sum of columns 6b, 6c, 6d, and 6e divided by column 6a; just one figure for each construction trade).
8. Female Percentage	For each trade the number reported in 6a. F divided by the sum of the numbers reported in 6a. M and F.
9. Total Number of Employees	Total number of male and total number of female employees working in each classification of each trade in the contractor's aggregate work force during reporting period.
10. Total Number of Minority Employees	Total number of male minority employees and total number of female minority employees working in each classification in each trade in the contractor's aggregate work force during reporting period.

Figure 4-5

APPENDIX 4A

STANDARD COMPLIANCE REVIEW FORMAT

4A-10 General. The EOS should use the Standard Compliance Review Format (SCRF) to report the results of compliance reviews of construction contractors. It is designed to provide objective measures of contractors' efforts to implement the minimum required affirmative action obligations specified in the Notice or Bid conditions.

4A-20 Part I. The information in this section should be completed before the review of the CC 257 and other required submission.

4A-30 Part II. This section shall be used for comparing reported work hours (CC 257) from 6 selected months or months comprising at least one fourth of the time period covered by the review, whichever is greater. Reported work hours must be validated by reviewing certified payroll records. Note: Intentionally filing false reports is a violation of Title 18, U.S. Code, and will be immediately reported to the ARA.

4A-40 Part III. The contractor's documentation of efforts to implement the required affirmative action steps detailed in the Specifications is evaluated here. Each item is required and necessary, and must be supported by adequate documentation. If the contractor has not met its goals and documentation or other evidence of its good faith efforts are not provided, the contractor cannot be found in compliance, unless it enters into an adequate conciliation agreement which includes, where appropriate, makeup goals and timetables, etc. Each specific item must be reviewed carefully. Items are grouped in general categories rather than in their Specification order to expedite the review.

4A-50 Part IV. Onsite inspections are usually an essential part of the compliance review process. Inspections should normally be conducted after reviewing the contractor's affirmative action documentation. Such inspections should be made at one or more of the contractor's work sites.

4A-60 Part V. The evaluation and status section must be completed for each review. If a contractor has been found in noncompliance, a show cause notice must be issued (unless an adequate conciliation agreement, or where appropriate, a letter of commitment, has been obtained).

4A-70 Attachment A. A contractor Deficiency Citation must normally be completed if the contractor is in noncompliance. One copy should be given to the contractor and one copy attached to the Summary Sheet.

4A-80 A conciliation agreement must be completed and signed by an officer of the contractor where required by chapter 8. A copy of the agreement should be given to the contractor and a copy should be attached to the Review Summary Sheet.

4A-90 Attachment B. The Review Summary Sheet should normally be completed and submitted to the RO within 14 days of the completion of the review.

U. S. DEPARTMENT OF LABOR Employment Standards Administration Office of Federal Contract Compliance Programs	STANDARD COMPLIANCE REVIEW (Construction)

This form is to be completed by the EOS preparing for the review.

Name and Address of Contractor	Compliance Officer	Review Period
	Date of Previous Review	Date of this Review
Telephone Number (Include Area Code)		

I. SUMMARY OF CONTR.CT COMPLIANCE FORM-257

1. List all the contractor's construction projects, regardless of whether they are Federal, federally assisted or non-federally related, which were underway in the covered area during the review period.

A. Covered Projects:	(If Federally Involved)		
Name/Location (City/State)	Funding Agency	Amount (Approximate)	Date of Award

Form CC-40

B. Summarize the contractor's workforce as reported on Contract Compliance Form-257 for the Review Period. If goals changed during the Review Period, complete Section I.C.

COVERED	YEAR		WORK HOURS							MINORITY HOURS AS A		MET ALL GOALS	
CRAFT	GOALS		TOTAL	MINORITY					FEMALE	% OF TOTAL		YES	NO
▨	M	F	▨	1	2	3	4	5	▨	M	F	▨	▨

1 - Total Minority
2 - Black (Not Hispanic Origin)
3 - Hispanic
4 - Amer. Ind. & Alaskan Native
5 - Asian or Pacific Islander

C. Use for utilization summary when goals changed during the review period.

COVERED CRAFT	YEAR GOALS		WORK HOURS							MINORITY HOURS AS A % OF TOTAL		MET ALL GOALS	
			TOTAL	MINORITY					FEMALE			YES	NO
	M	F		1	2	3	4	5		M	F		

1 - Total Minority
2 - Black (Not Hispanic Origin)
3 - Hispanic
4 - Amer. Ind. & Alaskan Native
5 - Asian or Pacific Islander

II. PAYROLL INSPECTION

1. Determine the following from payroll information to be made available by the contractor at the time of the review:

A. Utilization Validation

Select six months, or at least one-fourth of the months summarized on pages 2 and 3 of this report, whichever is greater, and complete the following work-hour validation from the contractor's payrolls.

1. Month ______________________ Year _________________

			REPORTED HOURS OF UTILIZATION FROM CONTRACT COMPLIANCE FORM-257					ACTUAL HOURS OF UTILIZATION FROM PAYROLLS				
CRAFT	GOAL		TOTAL	MINORITY		FEMALE		TOTAL	MINORITY		FEMALE	
▨	M	F	▨	#	%	#	%	▨	#	%	#	%

2. Month ______________________________ Year ______________________

			REPORTED HOURS OF UTILIZATION FROM CONTRACT COMPLIANCE FORM-257					ACTUAL HOURS OF UTILIZATION FROM PAYROLLS				
CRAFT	GOAL		TOTAL	MINORITY		FEMALE		TOTAL	MINORITY		FEMALE	
▨	M	F	▨	#	%	#	%	▨	#	%	#	%

3. Month ______________________ Year ________________

			REPORTED HOURS OF UTILIZATION FROM CONTRACT COMPLIANCE FORM-257					ACTUAL HOURS OF UTILIZATION FROM PAYROLLS				
CRAFT	GOAL		TOTAL	MINORITY		FEMALE		TOTAL	MINORITY		FEMALE	
	M	F		#	%	#	%		#	%	#	%

4. Month ______________________ Year ________________

			REPORTED HOURS OF UTILIZATION FROM CONTRACT COMPLIANCE FORM-257					ACTUAL HOURS OF UTILIZATION FROM PAYROLLS				
CRAFT	GOAL		TOTAL	MINORITY		FEMALE		TOTAL	MINORITY		FEMALE	
▨	M	F	▨	#	%	#	%	▨	#	%	#	%

5. Month ____________________ Year ________________

			REPORTED HOURS OF UTILIZATION FROM CONTRACT COMPLIANCE FORM-257					ACTUAL HOURS OF UTILIZATION FROM PAYROLLS				
CRAFT	GOAL		TOTAL	MINORITY		FEMALE		TOTAL	MINORITY		FEMALE	
▨	M	F	▨	#	%	#	%	▨	#	%	#	%

II. PAYROLL INSPECTION - Continued

DEFICIENCY

YES ____ NO ____

1. Are any of the contractor's employees members of a union? YES ___ NO ___

2. If YES, indicate by trade the name of the union and the local number.

______________________________ ______________________________

______________________________ ______________________________

3. Show total overtime hours worked by minorities and women by trade.

Trade	Minority Hours	Female Hours
____________	____________	____________
____________	____________	____________
____________	____________	____________
____________	____________	____________
____________	____________	____________
____________	____________	____________

4. Show total ovetime hours worked. ____________

Is overtime work in each trade distributed equitably among all employees? YES ____ NO ____

5. Is the contractor engaged in both residential and commercial construction? YES ____ NO ____

6. If "YES," are there wage differentials between the two types of construction? YES ____ NO ____ State amounts ____________

7. Are minorities and women assigned to both types of projects?

Minorities - YES ____ NO ____ Women - YES ____ NO ____

8. Show number of hours worked on each type project by minorities and women.

	Commercial	Residential
Minorities	________	________
Women	________	________

9. Show total number of hours worked on each type project.

Commercial ____________ Residential ____________

10. Do the payroll records reflect substantially uniform utilization of minorities and women throughout the length of the review period and on ALL the contractor's work (federally involved and nonfederally involved)?

Minorities YES ____ NO ____
Women YES ____ NO ____

III. AFFIRMATIVE ACTION EVALUATION
(CONTRACTOR/LABOR ORGANIZATION)

"Contractor," as used here, means the firm holding a federally involved contract or subcontract subject to the EEO Clause, the Notice, and the Specifications. The following items are detailed in the Specifications. They are the minimum standards for affirmative action. The items have been grouped by general areas of impact with the specific requirement repeated. Items indicated MUST have been adequately implemented and sufficiently documented to show that a contractor is in compliance. Each separate, individual question indicated in this fashion must be answered "yes" for the contractor to meet the minimum affirmative action requirements. If each separate, individual question is answered "yes", then the deficiency is "no". Where a contractor has not met its goals, the contractor must have deficiency "no" for each step in order not to be found in noncompliance. ALL AFFIRMATIVE ACTION EFFORTS MUST BE COMPLETELY DOCUMENTED TO BE ACCEPTED.

DEFICIENCY

YES___NO___

1. Recruiting

A. Does the contractor establish and maintain a current list of minority and women's recruitment sources, provide written notification to minority and women's recruitment sources and to community organizations when it or its unions have opportunities available, and maintain a record of the organizations' responses?

(1) Required activity

(a) Was there a list of minority and women's recruitment sources?

YES_____NO_____
Some, but insufficient_____

(b) Were there letters to community sources indicating:

(i) Company EEO Policy?

YES_____NO_____
Some, but insufficient_____

(ii) Nature of employment opportunities?

YES_____NO_____
Some, but insufficient_____

(c) Were there records of:

(i) Responses?
YES_____NO_____
Some, but insufficient_____

(ii) Results (hires/referrals)?

YES_____NO_____
Some, but insufficient_____

(2) Documentation provided Check ( ) documentation examined.

(a) ____Copies of correspondence

(b) ____Followup file

(c) ____Telephone logs, diaries, reports, memoranda

(d) ____Other (specify):____________

DEFICIENCY
YES___NO___

B. Does contractor maintain a file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or woman referred from a union, recruitment source, or community organization, and of the action taken with respect to each individual? If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, was not employed by the contractor, this will be documented in the file with the reason therefor, along with whatever additional actions the contractor may have taken.

(1) Required activity

(a) Was a followup file established for minority and women applicants listing at least the following:

(i) Name

YES_____NO_____
Some, but insufficient_____

(ii) Address

YES_____NO_____
Some, but insufficient_____

(iii) Telephone

YES_____NO_____
Some, but insufficient_____

(iv) Craft

YES_____NO_____
Same, but insufficient_____

(v) Whether applicants were hired:
If not, was there a reason?

YES_____NO_____
Same, but insufficient_____

(vi) If referred to the union, the union's or contractor's followup actions?

YES_____NO_____
Same, but insufficient_____

(b) Were names of applicants retained in file for 6 months after completion of the project, or at least as long as similar information for non-minority workers, whichever is greater?

YES_____NO_____
Same, but insufficient_____

(2) Documentation provided Check (___) types provided

(a) _____Copies of followup file records

(b) _____Copies of correspondence, telephone logs, reports, detailing contractor's followup with the union on minority or women applicants referred

(c) _____Interviews with employees

(d) _____Other (Specify)____________________
____

DEFICIENCY
YES ___NO___

C. Does contractor provide immediate written notification to OFCCP when the union or unions with which it has collective bargaining agreements do not refer to the contractor minorities or women sent by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations?

(1) Required activity

(a) Was there written notification as described?

YES_____NO_____
Some, but insufficient_____

(2) Documentation provided Check (___) types provided

(a) _____Copies of required notification

(b) _____Record of responses and followup by contractor

(c) _____Other (Specify):___________
____

DEFICIENCY
YES___NO___

D. Does contractor direct its recruitment efforts, both oral and written, to minority, women's, and community organizations, to schools with minority and women students, and to minority women's recruitment and training organizations serving the contractor's recruitment area and employment needs? Not later than 1 month before the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

(1) Required activity

(a) Was there personal contact on a recurrent basis with women's and minority recruitment organizations?

YES_____NO_____
Some, but insufficient_____

(b) Were results of these contacts, that is, resulting hires or referrals recorded?

YES_____NO_____
Some, but insufficient_____

(c) Was there identification of and personal contact on a regular basis with vocational, training, etc. schools with minority and women enrollments that can serve the contractor's needs?

YES_____NO_____
Some, but insufficient_____

(d) Were letters written to these organizations regarding training opportunities, including descriptions of openings, screening procedures, and tests to be used in selection process?

YES_____NO_____
Some, but insufficient_____

(2) Documentation provided Check ( ) types provided.

(a) _____Telephone logs, diaries, reports, memoranda

(b) _____Copies of correspondence

(c) _____Followup file/records

(d) _____Employee interviews

(e) _____Other (Specify)___ ________
____

DEFICIENCY
YES___NO___

E. Does contractor encourage present minority and female employees to recruit other minorities and women? Where reasonable, does the contractor provide after-school, summer, and vacation employment to minority and female youth both onsite and in other areas of a contractor's workforce?

(1) Required activity

(a) Was there personal contact with minority and female employees about recruitment of other minorities and women?

YES_____NO_____
Some, but insufficient_____

(b) Were results of these contacts, that is, hires or referrals, recorded?

YES_____NO_____
Some, but insufficient_____

(c) Were letters written to minority or women's recruitment sources, etc., about after-school, summer, or vacation employment openings?

YES_____NO_____
Some, but insufficient_____

(2) Documentation provided Check ( ) types provided.

(a) _____Telephone logs, diaries, reports, memoranda

(b) _____Copies of correspondence

(c) _____Followup file or records

(d) _____Employee interviews

(e) _____Other (Specify):___________
____

DEFICIENCY
YES___ NO___

2. Training

A. Does contractor develop on-the-job training opportunities or participate in training programs for the area that expressly include minorities and women (including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs), especially those programs funded or approved by the Department of Labor? The contractor will provide notice of these programs to the sources compiled under item 2, above.

(1) Required activity

(a) Were the following supplied:

(i) Equipment?

YES_____ NO_____
Some, but insufficient_____

(ii) Personnel?

YES_____ NO_____
Some, but insufficient_____

(iii) Cash contribution?

YES_____ NO_____
Some, but insufficient_____

(b) Was there hiring from such programs?

YES_____ NO_____
Some, but insufficient_____

(c) Were minority and women's recruitment sources or schools notified of programs?

YES_____NO_____
Some, but insufficient_____

(2) Documentation provided Check ( ) types provided.

(a) _____Letters, activity reports, memoranda, receipts, cancelled checks, collective bargaining agreements, employee files, interviews, diaries

(b) _____Other (Specify)_____________
____

DEFICIENCY
YES___NO___

3. Equal employment opportunity policy and implementation

A. Does contractor disseminate its EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc; by specific review of the policy with all management personnel and with all minority and women employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed?

(1) Required activity

(a) Is there a written EEO policy?

YES_____NO_____
Some, but insufficient_____

(b) Does the written policy include name and means of access to the company EEO Officer?

YES_____NO_____
Some, but insufficient_____

(c) Does the contractor include EEO policy in company policy manual and collective bargaining agreements?

YES_____NO_____
Some, but insufficient_____

(d) Is EEO Policy posted on company bulletin boards, in office, and at project sites?

YES_____NO_____
Some, but insufficient_____

(e) Is there oral discussion with minority and women employees at least once a year?

YES_____NO_____
Some, but insufficient_____

(f) Is there an oral review with all management personnel at least once a year?

YES_____NO_____
Some, but insufficient_____

(2) Documentation provided Check ( ) types

(a) _____Copy of policy, policy manual, newsletters, diaries, meeting reports or minutes, letters, interviews, inspection of bulletin boards, collective bargaining agreements

(b) _____Employee interviews

(c) _____Other (specify)_____________
____

DEFICIENCY
YES___NO___

B. Does contractor disseminate its EEO policy externally by including it in any advertising in the news media, specifically including minority and women's news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business?

(1) Required activity

(a) Is there written notification to all recruiting sources, including labor unions, prior to start of contracts requiring compliance?

(b) Is there inclusion of EEO "tagline" in all advertising?

YES_____NO_____
Some, but insufficient_____

(c) Is there notification to all subcontractors and suppliers requiring compliance?

YES_____NO_____
Some, but insufficient_____

(2) Documentation provided Check ( ) types provided.

(a) Copies of letters, contracts, advertisements, minutes of meetings, reports, telephone logs, diaries

(b) Other (specify):

____

DEFICIENCY
YES___NO___

C. Does contractor conduct at least annually an inventory and evaluation of at least all minority and female personnel for promotional opportunities, and encourage these employees to seek or to prepare for, through appropriate training, such opportunities?

(1) Required activity

(a) Is there an annual review of minority and female employees for promotional opportunities?

YES_____NO_____
Some, but insufficient_____

(b) Is there encouragement of minority and female employees to seek promotional opportunities?

YES_____NO_____
Some, but insufficient_____

(c) Are there efforts to assist minority and female employees to prepare for promotion?

YES_____NO_____
Some, but insufficient_____

(2) Documentation provided Check ( ) types provided.

(a) ____Copy of EEO officer's job description, records, reports, analyses, and diaries relating to monitoring and action taken as a result of monitoring, listing of employees promoted, personnel files, interviews.

(b) ____Other (specify)____________
____

DEFICIENCY
YES___NO___

D. Does contractor review, at least annually the company's EEO policy and affirmative action obligations under these Specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions, including specific review of these items with onsite supervisory personnel (superintendents, general foremen, etc.) prior to the initiation of construction work on any site? A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

(1) Required activity

(a) Is there an annual review of EEO policy affirmative action obligations with supervisory staff?

YES_____NO_____
Some, but insufficient_____

(b) Is there a record of such a review with time and place, attendees, subject matter, and disposition of subject matter?

YES_____NO_____
Some, but insufficient_____

(2) Documentation provided Check ( ) types provided.

(a) ____Minutes or reports of interviews or meetings with supervisors.

(b) ____Other (specify):___________
____

DEFICIENCY
YES___NO___

E. Does contractor conduct a review, at least annually, on all supervisors' adherence to and performance under the contractor's EEO policies and affirmative action obligations?

(1) Required activity

(a) Is there evidence of item D above?

YES_____NO_____
Some, but insufficient_____

(b) Is there monitoring of supervisor's employment practices?

YES_____NO_____
Some, but insufficient_____

(c) Is there notification to supervisors of adverse employment practices?

YES_____NO_____
Some, but insufficient_____

(2) Documentation provided Check ( ) types provided.

(a)_____Memoranda, minutes of meetings

(b)_____Monitoring reports, analyses, or diaries relating to monitoring action

(c)_____Other (specify):_____________
____

4. Company personnel operations

DEFICIENCY
YES___NO___

A. Does contractor ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites and in all facilities at which the contractor's employees are assigned to work? The contractor, where possible, shall assign 2 or more women to each construction project. The contractor shall specifically ensure that all supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minorities or women working at such sites or in such facilities.

(1) Required activity

(a) Is there notification to all supervisory staff to maintain such a working environment?

YES_____ NO_____
Some, but insufficient_____

(b) Is there monitoring of work environment by EEO officer?

YES_____ NO_____
Some, but insufficient_____

(2) Documentation provided Check ( ) types provided.

(a) _____Memoranda, minutes of staff meetings.

(b) _____Monitoring reports, diaries, and analyses relating to monitoring action.

(c) _____Employee interviews.

(d) _____Other (specify):_____________
____

DEFICIENCY
YES___ NO___

B. Does contractor maintain all required information and validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3?

(1) Required activity

(a) For contractors with 100 or fewer employees, does the contractor maintain records showing:

(i) The number of persons hired, promoted, and terminated for each job, by sex, and by race and national origin?

YES_____ NO_____
Some, but insufficient_____

(ii) The number of applicants for hire and promotion by sex and by race and national origin?

YES_____NO_____
Some, but insufficient_____

(iii) The selection procedures utilized?

YES_____NO_____
Some, but insufficient_____

(iv) Evidence of the validity of any selection procedures which the contractor has reason to believe have an adverse impact?

YES_____NO_____
Some, but insufficient_____

(b) For contractors with over 100 employees, has the contractor:

(i) Made at least annual determinations as to the adverse impact of its total selection procedures?

YES_____NO_____
Some, but insufficient_____

(ii) (If total selection procedures show adverse impact) analyzed which elements of the selection process have an adverse impact?

YES_____NO_____
Some, but insufficient_____

(iii) Validated all aspects of the selection process which have an adverse impact?

YES_____NO_____
Some, but insufficient_____

(2) Documentation provided Check ( ) types provided.

(a) _____Records of hires, promotions and terminations

(b) _____Records of applicants

(c) _____Determinations (reports, memoranda, etc.) of adverse impact, or, where less than 100 employees, appropriate records are maintained.

(d) _____Validation studies or other evidence of validity of selection procedures.

(e) _____Other (specify):______________

____

DEFICIENCY
YES___NO___

C. Does contractor ensure that seniority practices, job classifications, work assignments, and other personnel practices have no discriminatory effect and does it continually monitor all personnel employment related activities to ensure that the EEO policy and the contractor's obligations under these Specifications are being carried out?

(1) Required activity

(a) Is there constant, specific monitoring of the following for potentially discriminatory patterns or effects?

(i) On the job training?

YES_____NO_____
Some, but insufficient_____

(ii) Referrals from unions?

YES_____NO_____
Some, but insufficient_____

(iii) Layoffs by supervisors or superintendents?

YES_____NO_____
Some, but insufficient_____

(iv) Terminations?

YES_____NO_____
Some, but insufficient_____

(v) Hires and rejections?

YES_____NO_____
Some, but insufficient_____

(b) Is there careful review of collective bargaining agreements for EEO policy and potentially discriminatory practices and provisions?

YES_____NO_____
Some, but insufficient_____

(2) Documentation provided Check ( ) types provided.

(a) _____Copies of subcontracts and joint venture agreements, solicitations of minority and women contractors and contractors associations, records of responses or quotations from women and minority contractors, telephone logs, diaries, copies of advertising for subcontractors containing EEO "tagline" and in minority media

(b)_____Other (specify):_______________
____

(3) List names of contractors, dollar amounts of contracts and projects worked on, and percent of joint venture contracts.

(a) Contractor	(b) Project	(c) $ Amount	(d) Percent of Joint venture

DEFICIENCY
YES___NO___

D. Does contractor ensure that all facilities and company activities are nonsegregated, except for providing separate or single-user toilet and necessary changing facilities to assure privacy between the sexes?

(1) Required activity

(a) Is there certification of nonsegregated facilities incorporated into all purchase orders and subcontracts?

YES_____NO_____
Some, but insufficient_____

(b) Are there announcements of parties or picnics, etc. posted for general view?

YES_____NO_____
Some, but insufficient_____

(c) Is there assurance that all other benefits are provided in a nondiscriminatory manner?

YES_____NO_____
Some, but insufficient_____

(d) Is there notification to supervisors about adequate toilet and changing facilities assuring privacy between the sexes?

YES_____NO_____
Some, but insufficient_____

(2) Documentation provided Check ( ) types provided.

(a) _____Copies of leases, purchase orders, EEO policy, interviews with employees, activity attendance lists, reports, meeting minutes.

(b) _____Staff nemoranda, minutes of staff meetings.

(c)_____Other (specify):______________
____

5. Minority subcontractors/joint ventures

DEFICIENCY
YES___NO___

A. Does contractor document and maintain a record of all solicitations of offers for subcontracts from minority and women construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations?

(1) Required activity

(a) Is there direct personal solication to:

(i) Minority and female contractors?

YES_____NO_____
Some, but insufficient_____

(ii) Minority and female associations?

YES_____NO_____
Some, but insufficient_____

(b) Is there assurance for solicitations to minority and female contractors are carried out on (at least) the same basis as that for non-minority male contractors?

YES_____NO_____
Some, but insufficient_____

(c) Is there assurance that contracts are negotiated on (at least) a nondiscriminatory basis for minority and female contractors versus nonminority male contractors?

YES_____NO_____
Some, but insufficient_____

6. Charges of discrimination

DEFICIENCY
YES___NO___

A. Are there any formal charges of discrimination pending against this contractor? (Include EEOC charges, State and local government charges, grievances, etc.)

YES_____NO_____
Some, but insufficient_____

B. If "yes" determine and describe to the extent possible the impact of this complaint(s) upon the contractor's compliance status:

IV. ONSITE INSPECTION

1. Is an onsite inspection necessary to validate/obtain any information indicated above? Yes_____ No_____

If "no", explain____

____

____

____

____

If "yes", (A) List sites to be visited and funding (Federal and non-Federal). (NOTE: Whenever possible, non-federally involved sites are to be visited.)

(1) PROJECT NAME & LOCATION	(2) FUNDING (Estimate Amount)

B. Information to be validated/obtained. (Check as appropriate).

(1)__Workforces/payroll

(2)__Ethnicity/race/sex of employees

(3)__Employee interviews

(4)__Review bulletin boards

(5)__Other (Specify below)

(a)________________

(b)________________

(c)________________

(d)________________

(e)________________

(f)________________

ONSITE INSPECTION - Continued

(To be completed by the EOS at the time of the onsite inspection. The following items correspond to those items on page , plus any other potential problems discovered onsite.

DEFICIENCY

YES__ NO__ (1)______________________________

YES___ NO__ (2)______________________________

YES___ NO___ (3)______________________________

YES___ NO___ (4)______________________________

best copy available

NOTE: Complete the attached "onsite" format at the time of of inspection. Also complete the "review evaluation."

DEFICIENCY

YES___ NO__ (5)(a)______________________________ _________

(b)____

(c)____

(d)____

VI. EVALUATION/ENFORCEMENT

(This section must be completed and signed by the EOS or supervisor.)

1. Status (Check appropriate item)
   - a. _____In compliance with goals in all covered crafts
   - b. _____In compliance with affirmative action standards

     (Specifications) ____________________________________

     ____
   - c. ______Noncompliance (complete and attach) Deficiency Citation, Form CC-32
     - (i) ______Conciliation Agreements; or
     - (ii) ______A Show Cause Notice has been/will be issued on ________.

2. Persons in Attendance

a. Contractor (Name & Position)	b. OFCCP Representative (Name & Title)

3. a. Date Review Completed ___________________________.

   b. Number of hours to complete review ________________.

4. Signature (Team Leader/Supervisor.) ___________________________

5. Telephone Number ______________________.

6. Date Review Signed ______________________.

Attachment A

U. S. DEPARTMENT OF LABOR
Employment Standards Administration
Office of Federal Contract Compliance Programs

DEFICIENCY CITATION

The following deficiencies exist in the affirmative action program of ______________________________

____:

I. UTILIZATION

The following crafts, covered by the Executive Order 11246 contract provisions, failed to meet the required utilization goals in the firm's total covered area workforce.

CRAFT	GOAL	ACTUAL UTILIZATION

II. AFFIRMATIVE ACTION PROGRAM

The following deficiencies have been identified in the firm's affirmative action program as required in the specifications:

1. ____

____

2. ____

____

3. ____

____

4. ____

____

5. ____

Form CC-32
Rev. May 1979

6. ______________________________

7. ______________________________

8. ______________________________

9. ______________________________

10. ______________________________

11. ______________________________

12. ______________________________

13. ______________________________

14. ______________________________

15. ______________________________

16. ______________________________

17. ______________________________

18. ______________________________

Team Leader	Signature	Date

Note: If more space is needed use another sheet of paper and attach to this form.

Attachment B

U. S. DEPARTMENT OF LABOR
Employment Standards Administration
Office of Federal Contract Compliance Programs

REVIEW SUMMARY SHEET

1. Contractor's Name and Address

2. Telephone Number (Include Area Code)

3. Area Office Conducting the Review

4. Compliance Officer Conducting the Review

5. Date Review

6. Total Hours Spent on Review

7. Date OFCCP-RO Notified of Proposed Review

8. Date of Contractor's Last Review

9. Status after Last Review

10. Findings

	YES	NO
a. Met goals in all covered crafts? (If "Yes", complete item 11 below) If "No":	☐	☐
b. Documented adequate implementation of affirmative steps? (If "Yes", complete item 11 below) If "No":	☐	☐
c. Made adequate remedial commitments? (If "Yes", attach "Deficiency Citation" and "Conciliation Agreement" and complete item 11 below.) If "No":	☐	☐
d. 30-Day Notice sent? (If "Yes", attach "Notice and Deficiency Citation and complete item 11 below.)	☐	☐

11. CURRENT STATUS

a. In Compliance

Date compliance letter sent ____________________

b. Non-Compliance

Date show cause notice sent ____________________

12. Name of Regional Contract Compliance Officer

13. Telephone Number

14. Date

Form CC-30
Rev. May 1979

APPENDIX 4B

AFFIRMATIVE ACTION STANDARDS

Contractors shall take affirmative action to ensure equal employment opportunity. Evaluation of contractor's compliance with the affirmative action standards shall be based on contractors' efforts to achieve maximum results from their actions. In the case of contractors participating in an approved Hometown Plan, each contractor is individually responsible for compliance with the Equal Opportunity Clause (41 CFR 60-1.4), and for making a good faith effort to achieve the goals under the Plan. The contractor shall be required to provide documentary evidence of efforts to implement each of the 16 affirmative action steps specified in the Specifications. Listed below are the 16 essential affirmative action steps, the efforts required to implement them, and the records that should be maintained to document contractor's efforts.

1. The contractor must maintain a working environment free of harassment, intimidation, and coercion at all sites and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, must assign 2 or more women to each construction project. The contractor shall specifically ensure that all supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minorities or women working at such sites or in such facilities.

To demonstrate compliance:
Contractors may produce copies of memorandums to supervisory staff, or minutes or notes of staff meetings or EEO officer's meetings with supervisors to inform them of the contractor's obligation to maintain a working environment free of harassment, intimidation, and coercion and to, where possible, assign two or more women to each construction project. Contractors should also have copies of reports diaries, analyses, etc., relating to the monitoring of the work environment by the EEO officer.

2. The contractor must establish and maintain a current list of minority and women's recruitment sources, provide written notification to minority and women's recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organization's responses. The list of recruitment sources must be sufficiently comprehensive to meet the contractor's minority and female personnel needs.

To demonstrate compliance:
The contractor must have a current listing of recruitment sources for minority and female craft workers. It must have copies of recent letters to community resource groups or agencies specifying the contractor's employment opportunities and the procedures one should follow when seeking employment.

It must note the responses received and the results on the bottom or reverse side of the letters or establish a follow up file for each organization notified.

3. The contractor must maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and source, or community organization and of what action was taken with respect to each individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, was not employed by the contractor, this shall be documented in the file with the reasons, along with whatever additional actions the contractor may have taken.

To demonstrate compliance:
The contractor must have a file of the names, addresses, telephone numbers, and crafts of each minority and female applicant showing the date of contact and whether or not the person was hired and (if not) the reason; whether or not the person was sent to a union for referral and what happened; and (c) follow up contacts when the contractor was hiring.

4. The contractor must provide immediate written notification to the Director when the union or unions with which the contractor has a collective bargaining agreement fail to refer to the contractor a minority group person or woman sent by the contractor, or when the contractor has other information that the union referral process impeded the contractor's efforts to meet its obligations.

To demonstrate compliance:
The contractor must have copies of all letters to unions, responses from unions, minutes of meetings, etc., relating to the claim that the union is impeding the contractor's efforts to comply. In addition, the contractor must have copies of letters sent to the Director and the appropriate OFCCP regional office to verify its claim that the union is impeding the contractor's efforts to comply.

5. The contractor must develop on-the-job training opportunities or participate in training programs for the area that expressly includes minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of those programs to the sources compiled under item 2, above.

To demonstrate compliance:
The contractor must have records of contributions in cash, equipment supplied or contractor personnel provided as instructors for Bureau of Apprenticeship and Training-approved or Department of Labor-funded training programs and records of the hiring and training or minorities and women from such programs. Supply copies of letters informing minority and women's recruitment sources or schools of these programs.

6. The contractor must disseminate its EEO policies by providing notice of the policy to unions and training programs and requesting their help in meeting its EEO obligation; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper or annual report; by specific review of the policy with all management personnel and with all minority and women employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

To demonstrate compliance:
The contractor must have written EEO policies that include the name and contact information on the contractor's EEO officer and must (a) include the policy in any company policy manuals; (b) post a copy of the policy on all company bulletin boards (in the office and on all job sites); (c) put in records, such as reports or diaries, that each minority and female employee is aware of the policy and that it has been discussed with them; (d) record that the policy has been discussed regularly at staff meetings; (e) make copies of newsletters and annual reports that include the policy; and (f) make copies of letters to unions and training programs requesting their cooperation in helping the contractor meet its EEO obligations.

7. The contractor must review, at least annually, the company's EEO policy and affirmative action obligations under these Specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions, including specific review of these items with all on-site supervisory personnel prior to the initiation of work at any job site. The contractor must make and maintain a written record and maintain it to identify the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

To demonstrate compliance:
The contractor must have written records (memorandums, diaries, minutes of meetings) identifying the time and place of meeting, persons attending, subject matter discussed, and disposition of subject matter.

8. The contractor must disseminate its EEO policies externally by including it in any advertising in the news media, specifically including minority and women's media, and providing written notification to , and discussing the contractor's EEO policy with, other contractors and subcontractors with whom the contractor does or anticipates doing business.

To demonstrate compliance:
The contractor must have copies of (a) letters sent, at least every 6 months or at the start of each new major contract, to all recruiting sources (including labor unions and training programs) requiring compliance with the policy; (b) advertising that has the EEO "tagline" on the bottom; and (c) letters to all subcontractors and suppliers, at least at the time the subcontract is signed, requiring compliance with the policy.

9. The contractor must direct recruitment efforts, both oral and written, to minority and women's community organizations, to schools with minority and

women students, and to minority and women's recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than 1 month prior to the date for acceptance of applications for apprenticeship or other training by any recruitment source, the contractor must send written notification to such organizations, describing the openings, screening procedures, and tests to be used in the selection process.

To demonstrate compliance:
The contractor must have written records of contacts (written communications, telephone calls, or personal meetings) with minority and women's community organizations and recruitment sources, and schools and training organizations, specifying the date(s), individuals contacted, results of the contact, and any follow up. It must have copies of letters sent to these organizations at least one month prior to acceptance of applications for training (apprenticeship or other) describing the openings, screening procedures, and tests to be used in the selection process.

10. The contractor must encourage minority and female employees to recruit other minority persons and women and provide, where reasonable, school, summer and vacation employment to minority and female youth both onsite and in other areas of its work force.

To demonstrate compliance:
The contractor must have copies of diaries, telephone logs, or memos indicating contacts (written and oral) with minority and women employees requesting their assistance in recruiting other minorities and women, and record results. If contractor normally provides after-school, summer, and vacation employment, it must have copies of letters to organizations under item 9 describing those opportunities and must have responses received and results noted on letters or in a follow-up file.

11. A contractor with over 100 employees must conduct the annual adverse impact analysis required by 41 CFR Part 60-3.15(A). Where there is adverse impact in a selection process, the contractor must analyze the components to determine the source of the adverse impact. The contractor must then eliminate the adverse impact in the selection process (Part 60-3.6(A)) or demonstrate the business necessity of its procedures (Part 60-3.3(A)).

To demonstrate compliance:
The contractor must meet the documentation requirements of Part 60-3.15.

12. The contractor must conduct, at least annually, an inventory and evaluation (at least) of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for such opportunities by appropriate training.

To demonstrate compliance:
The contractor must have written records (memo, letters, personnel files, etc.) showing that the company makes annual reviews of minority and female personnel for promotional opportunities and notifies these employees of training opportunities (formal or on-the-job) and encourages their participation.

13. The contractor must ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect, by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations under these specifications are being carried out.

To demonstrate compliance:
The contractor must have evidence (letters, memos, personnel files, reports) that: (a) the activity under item 12, above, has been carried out; (b) any collective bargaining agreements have an EEO Clause and the provisions do not operate to exclude minorities and women; (c) the EEO officer reviews all monthly work force reports, hirings, terminations, and training provided on-the-job; (d) the EEO officer's job description identifies his or her responsibility for monitoring all employment activities for discriminatory effects; and (e) the contractor has initiated corrective action whenever the contractor has identified a possible discriminatory effect.

14. The contractor must ensure that all facilities and company activities are nonsegregated, except for providing separate or single-user toilets and necessary changing facilites to assure privacy between the sexes.

To demonstrate compliance:
The contractor must have incorporated the "Certification of Nonsegregated Facilities" from the contractor's federally-involved contract documents into all subcontracts and purchase orders; have records that announcements of parties, picnics, etc. have been posted and have been available to all employees; have records that all employment benefits have been offered to all employees; have written copies of contacts (written or verbal) with supervisory staff regarding the provision of adequate toilet and changing facilities to assure privacy between the sexes.

15. The contractor must document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and women's contractor associations and other business associations.

To demonstrate compliance:
The contractor must have copies of letters or other direct solicitation of offers for subcontracts from minority or female contractors with a record of the specific responses and any follow up the contractor has done to obtain a price quotation or to assist a minority or female contractor in preparing or reducing a price quotation; have a list of all subcontracts awarded to minority or female contractors with dollar amounts; have copies of solicitations sent to minority and women's contractor associations or other business associations.

16. The contractor must conduct a review, at least annually, of all supervisors' adherence to and performance under the contractor's EEO policies and affirmative action obligations.

To demonstrate compliance:
The contractor must have copies of memos, letters, reports, minutes of meetings, or interviews with supervisors regarding their employment practices as they relate to the contractor's EEO policy and affirmative action obligations, and written evidence that supervisors were notified when their employment practices adversely or positively impacted on the contractor's EEO and affirmative action posture.

Appendix 4C

Hometown Plan Procedures

I. General

A. If the current plan is expiring, a new or revised Hometown Plan must be developed by the Hometown Plan Administrative Committee and submitted to the OFCCP regional office for review and approval. The Plan will consist of at least the following items:

1. Area-Define by Standard Metropolitan Statistical Area (SMSA) or by county.

2. Goal and length of Plan-Indicate the minority and female goals as stated in the Plan and the timetables for attaining the goal. Note: The use of the term quota will be considered grounds for rejecting a Plan. Furthermore, any reference to proportional representation will also be considered grounds for rejecting a Plan.

3. Administrative Committee-Indicate the structure and voting procedure to be used. State the factors which constitute a quorum.

4. Operations Committee-Indicate the structure and voting procedure to be used. State the factors that constitute a quorum.

5. Signatories (parties)-State whether the Plan is bipartite or tripartite. List the local unions by craft, with local union number, contractors and community organizations that are party to the Plan.

6. Background data on trades-Give data on the composition of membership by sex, race and classification (apprentice or craft worker, qualified).

7. Specific commitments by trade-List the numerical commitments for each trade (minorities and women). List the first-year goals (numerically) for each trade.

8. List entry classifications-Note any special limitations to journeyman or other status.

9. Arbitration clause or provision-Indicate if the Plan provides for arbitration.

10. List of all contractors signatory-Include individually or collectively, in the Plan as an addendum.

11. Miscellaneous-Note any other significant provisions.

B. The Administrative Committee will:

1. Prepare requests for extension of an existing Plan, and submit this request to the OFCCP regional office together with revised goals to be used by the participating crafts during the extension period.

2. Prepare requests for changes in the geographical jurisdiction of existing Plan, including the rationale for these changes to be submitted to OFCCP regional office.

3. Provide reports, data, and assistance as required by the OFFCCP regional office for the conduct of a Hometown Plan audit.

4. File quarterly reports (OCC0-104 Revised) by the 15th day of every third month with the OFCCP regional office (OCCO-104 Revised and instructions are attached).

II. In relation to Plan contractors, the Administrative Committee will:

A. Monitor and evaluate the employment practices of Plan contractors and report this information by contractor on a quarterly basis to the OFCCP regional office (OCCO-104 Revised, Chart C).

B. Develop and implement a system for ensuring that individual Plan contractors make a good faith effort to individually achieve the goals and affirmative action requirements of the Plan, and for periodically reporting problems regarding good faith effort to OFCCP. Require participating contractors to submit monthly Employment Utilization Reports (CC 257) to the Committee.

C. Review and evaluate requests from craft union locals for signatory status and make recommendations to the OFCCP regional office. The request should include active membership data for the local by race, sex, and classification, and should specify goals and timetables for the new craft union consistent with those in the Plan.

D. Review requests for signatory status received from contractors or contractor associations for referral to the regional office.

E. Continually review the performance of contractors and recommend to OFCCP regional office the removal from the Plan, and/or that enforcement action to be taken against; those contractors not functioning in accordance with the Plan, or failing to meet their individual goals.

III. In relation to signatory craft local, the Administrative Committee will:

A. Function as an actual source or a referral mechanism for recruiting and placing minorities and women with local unions.

B. Ensure up-to-date screening, recruitment, and placement records on all local union minority and women applicants.

C. Monitor and evaluate the work assignments of the minorities and women placed through the union, especially those in the trainee and apprentice classification. This should be the function of the Operations Committee.

D. Review and recommend to the OFCCP regional office, revisions in the craft union locals' goals and timetables.

E. Review and evaluate requests from craft union locals for signatory status, and make recommendations to the OFCCP regional office. The request should include active membership data for the local by race, sex, and classification, and should specify goals and timetables for the new craft union consistent with those of the Plan.

F. At least twice yearly, supply or ensure submission to the OFCCP regional office of evaluation of "good faith effort" information, including membership and work hour data for those craft unions not meeting their placement or membership goals.

G. At least twice yearly, review and evaluate requests from signatory craft unions for reinstatement to the Plan, as stipulated in OFCCP Audit Instructions.

H. File quarterly reports with the OFCCP regional office (OFCCO-104 Revised Charts A, B, C and D).

I. Provide data and information required by the OFCCP regional office for the conduct of Interim Craft or Annual audits.

The Summary Report is to be completed on the basis of the previous quarter's activity. Some cumulative data is also required. The columns have been numbered for explanatory purposes. The area, date, quarter covered, and the signature should be entered in the appropriate places.

CHART A (OC - 41)	Prepare the following reports: (1) Minorities, all contractors aggregate. (2) Female, all contractors aggregate. (3) Minorities, by contractor (one contractor per report). (4) Females, by contractor (one contractor per report).
HEADINGS	Enter Hometown Plan name, contents of report, (e.g., all minority; or XYZ company minorities); date the plan was approved; the quarter and year for which the report is submitted. Report must be signed by the official authorized by the Administrative Committee.
Column 1	Craft - Enter each craft signatory to the Plan.
Column 2	Total Craft Goal - Enter goal for each craft.
Column 3	Current Year Goal - Enter the current year goal for each craft.
Column 4	Total Placed This Quarter - Enter total number placed for each craft.
Column 5	Total Placed to Date - Enter cumulative total of all placements by craft including figures given in this report.
Column 6	Total Placed Each Quarter - Enter cumulative total for each craft of all people placed by quarter, 1st quarter being the first 3 months following the approval date of the Plan (that is if date Plan approved is September 1970, 1st quarter would include September, October, November, etc.).

Column 7	Total of Each Classification - Enter by craft the cumulative total of all trainees, advance trainees, journeymen, and apprentices in appropriate space.
Column 8	Work Status - Enter total number of people under appropriate column. CR - Classroom; W - Working; T - Terminated (over 90 days); L - Laid Off (90 days or less); Q - Quit; TR - Transferred: OA - Out of Area; CNL - Could not locate.
Column 9	Total Upgraded - Enter total number of people upgraded for each craft for the reporting period only.
Column 10	Percentage of Goals Achieved - Enter percentage of the cumulative goals to date including current year goals.
Column 11	Total Applicants Not Placed - Enter total number of applicants by craft that have been recruited but not placed.
Column 12	Remarks - This space is provided for any pertinent comments related to any column reported on by craft. If additional space is required, place asterisk in the appropriate space and continue on reverse side.

All spaces are to be completed. If no action, enter N/A in appropriate space.

CHART B (CC-41)	Placements This Quarter - List the name, address, social security number, date of placement and craft for each person placed during the quarter covered by this report.
CHART C (CC-41)	Place in the applicable column the following information:
Column 1	Name of contractor(s) where placements were accepted during reporting quarter.
Column 2	List contractor(s) projects where placements worked during reporting quarter.

Column 3	List Craft(s) in which placements were employed. If placement worked on more than one craft, provide explanation.
Column 4	List name(s) of placement(s).

The Administrative Committee shall maintain records for each individual placement. Those records shall include at least the following:

(a) Name of Placement
(b) Address
(c) Telephone number
(d) Social security number
(e) Age
(f) Initial date of placement
(g) Trade
(h) Employment record

  1. Employers
  2. Date of employment
  3. Reason for leaving

(i) Date of acceptance as journeyman or apprentice
(j) Explanation for departure from the program

CHART D (CC-41)	For each contractor who is a signatory to the Plan, complete separately Chart D, which consists of 2 subcharts: D1. The contractor's projects. D2. The contractor's utilization of minorities and women during the reporting period. (This chart is based upon the contractor's CC-257s. If the contractor failed to submit any (or all) CC-257s, that fact should be noted on the report.)

U. S. DEPARTMENT OF LABOR
Employment Standards Administration
Office of Federal Contract Compliance Programs

ADMINISTRATIVE COMMITTEE QUARTERLY REPORT
(Chart A) *

This report is required by law, 41 CFR 60-1.7. Failure to report can result in the withdrawal of the Office of Federal Contract Compliance Program's recognition of a voluntary affirmative action plan.

Hometown Plan (Name)

Contents of Report

Report Period

Signature of Authorized Official

Date Approved

(1) Craft	(2) Total Craft Goal	(3) Total Placed to Date	(4) Current Year Goals	(5) Total Placed This Quarter	(6) Total Placed Each Quarter of (Current Year)				(7) Total Each Classification				(8) Work Status								(9) Total Up-graded	(10) % of Goal Achieved To Date & Current Year	(11) Total Appli-cants Not Placed	(12) Remarks
									C	AP	T	AT	CR	W	T	L	Q	TR	OA	ONL				

*Use separate sheet for female goal.

Form CC-41
August 1976

ADMINISTRATIVE COMMITTEE QUARTERLY
PLACEMENT DATA REPORT
(Chart B)

(1) Name	(2) Address	(3) Telephone No.	(4) Date Placed	(5) Craft

ADMINISTRATIVE COMMITTEE QUARTERLY CONTRACTOR PARTICIPATION REPORT (Chart C)			
(1) Contractor(s)	(2) Project(s)	(3) Craft(s)	(4) Name of Placement(s)

CHART D1

U. S. DEPARTMENT OF LABOR Employment Standards Administration Office of Federal Contract Compliance Programs	HOMETOWN PLAN ADMINISTRATIVE COMMITTEE REPORT

Prepared by:

Name _______________ Title _______________ Date _______________

Name and Address of Contractor		Time Period Covered
Telephone Number (Include Area Code)		

I. SUMMARY OF CONTRACT COMPLIANCE FORM-257

1. List all the contractor's construction projects regardless of whether they are federal, federally-assisted, or non-federally related, which are underway in the Plan Area during the review period.

   A. Covered Projects:

Name/Location (City/State)	(If Federally Involved) Funding Agency	 Amount (Approximate)	Date of Award

CHART D2

Summarize the contractor's workforce as reported on Contract Compliance Form-257 for the Review Period.

COVERED CRAFT	YEAR GOALS		WORK HOURS							MINORITY HOURS AS A % OF TOTAL		MET ALL GOALS	
			TOTAL	MINORITY					FEMALE			YES	NO
▨	M	F	▨	1	2	3	4	5	▨	M	F	▨	▨

1 - Total Minority
2 - Black (Not Hispanic Origin)
3 - Hispanic
4 - Amer. Ind. & Alaskan Native
5 - Asian or Pacific Islander

TABLE OF CONTENTS

CHAPTER 5. PREAWARD REVIEW PROCEDURES

SECTION

5-10 Purpose
5-20 Overview of the Preaward Procedure
5-30 Determining When a Preaward Review is Necessary
5-40 Conducting the Preaward Review

FIGURES

5-1 Sample Letter of Deficiencies

CHAPTER 5. PREAWARD REVIEW PROCEDURES

5-10 Purpose. Paragraph 60-1.20(d) of Title 41 of the Code of Federal Regulations requires a compliance review prior to the award of a nonconstruction contract of $1 million or more. The preaward requirement applies to both current and prospective contractors and to their first-tier subcontractors with proposed contracts and subcontracts of $1 million or more. This chapter provides an overview of the procedures for preaward clearances and basic instructions EOSs should use in conducting preaward reviews.

5-20 Overview of the Preaward Procedure. The preaward review process involves all levels of OFCCP's structure in a critical operation performed within a short period of time. Because the interrelationships of these levels is so vital to the success of the preaward process, an overview of the administrative procedure is given here as background.

5-20.1 Where a prospective contractor has indicated that it will, as a condition of its contracts, comply with the Executive Order, PCOs make requests for preaward clearances prior to the award of nonconstruction contracts of $1 million or more under 41 CFR 60-1.20(d). PCOs may also request preaward clearances under 41 CFR 60-2.2(b) when they have evidence that a contractor already covered by 41 CFR Part 60-2 has failed to develop an AAP for each establishment or has substantially deviated from its program. Requests for preaward clearances are submitted to OFCCP ROs.

5-20.2 The RO checks the preaward tracking system to determine whether a bidder/contractor is potentially eligible for award of the contract. If the bidder/contractor is potentially eligible, the RO then checks with the appropriate AO to determine whether there is a current finding of compliance for the establishment under consideration for award.

5-20.2a If there is a current finding of compliance (i.e., within the 12 previous months and the contractor has not deviated substantially from the AAP for that establishment), the RO notifies the PCO that the bidder/contractor is awardable for EEO purposes.

5-20.2b If the appropriate AO staff states that there is no current finding of compliance, the RO directs that a preaward review be conducted. OFCCP is normally required to provide the PCO with a report as to the compliance of the bidder(s)/contractor(s) and prospective subcontractor(s) within 30 days of receipt of the request for a compliance determination. If a compliance review is already in progress, the RO directs that the review be completed within the 30-day time period.

5-20.2c When the AO has recently conducted a compliance review which has resulted in a finding of noncompliance, the RO:

5-20.2c1 Requests the file for hearings or sanctions processing in accordance with procedures established in chapter 8; and

5-20.2c2 Notifies the Branch of Procurement Coordination, NO, to advise the Director of the finding.

5-20.3 If there has been no compliance review conducted at the establishment in the past 12 months, on instructions from the RO, the AO should schedule and conduct a preaward review under the procedures below.

5-20.3a If the review results in a finding of compliance, the appropriate AO staff shall notify the RO so that preaward clearance may be granted.

5-20.3b If the review results in a finding of noncompliance, the AO should notify the contractor in a letter of deficiencies.

5-20.4 Where a contractor is found in noncompliance and believes that it is in compliance, it may comply and obtain a hearing under 41 CFR 60-1.24(c)(4) or it may request a substantial issues determination under 41 CFR 60-2.2(b). In addition, except in specific instances outlined below in 5-40.5, a contractor found in noncompliance in a preaward review will be provided with a hearing prior to being declared nonawardable for Executive Order reasons. Hearings if any, will be handled by the NO.

5-30 Determining When a Preaward Review is Necessary. A preaward review should be conducted for any establishment which has not had its affirmative action program approved within the previous 12 months. For purposes of computing the 12-month period, the starting point of the period is the date on which prior notice of compliance was sent the contractor.

5-40 Conducting the Preaward Review-General Guidance. The preaward review includes a comprehensive audit of the contractor's employment policies and practices, with special attention paid to those relating to recruitment, selection, placement, promotion, and other areas of potential discrimination. The object of the preaward review is to determine whether a currently covered contractor is in compliance with all applicable provisions of the regulations, or whether a prospective contractor is able to comply.

5-40.1 Timeliness. These procedures are intended to provide the EOS with maximum flexibility in determining a bidder/contractor's compliance status. 41 CFR 60-1.20(d) requires OFCCP to present a report of compliance to the PCO within 30 days of the request for preaward clearance. Thus, although the preaward review should be as complete a review as possible, it is imperative that the review be completed within the 30-day time period.

5-40.1a If it appears that the contractor will be found in noncompliance, the AO shall inform the RO which should notify the Director of Enforcement Coordination, NO, not later than 25 days after initiation of the preaward process. Notification by telephone will include unresolved issues and will be promptly confirmed in writing. Where noncompliance is found, contact with the PCO will be by the NO, and not by the RO or AO.

5-40.1b If a determination cannot be made as to whether a contractor is in noncompliance within the 30-day preaward review period, the contractor is to be cleared for preaward purposes unless the RO is notified to the contrary by the Division of Enforcement Coordination, NO. While a decision on preaward eligibility must be made within 30 days, a letter of compliance will not be issued until all outstanding deficiencies have been resolved. Once preaward clearance is granted, any further compliance or enforcement proceedings will be conducted on a post award basis.

5-40.2 Desk audits and onsite phases. Chapters 2 and 3 of the manual, relating instructions for conducting desk audits and onsite phases of compliance reviews, should be consulted for instructions for conducting the desk audit and onsite phases, as applicable, of the preaward review. Because of the limited time available, the desk audit phase may be greatly shortened or eliminated entirely. The analyses associated with desk audits may be combined with aspects of the onsite review. To ensure the ready availability of the contractor's AAP and support data for the EOS's arrival onsite, the EOS should request--when scheduling the onsite review with the contractor--that these data be made available upon arrival.

5-40.3 Letters of deficiencies. Upon completion of the review, if deficiencies are found, the EOS should issue the contractor a letter of deficiencies including: (1) a statement of the precise deficiencies and violations found, with citations of the sections of the regulations violated; (2) the clauses set forth in Policy Issuance ARA 79-37 (April 18, 1979) advising the contractor of its opportunities for a hearing and request that the contractor enter conciliation.

A show cause notice shall not be issued in lieu of a letter of deficiencies, unless the Director, OFCCP has specifically approved such action. Refer to figure 5-1 for a sample letter of deficiencies.

5-40.3a A lettersof deficiencies should normally be issued only for substantive violations such as those requiring a conciliation agreement as opposed to a letter of commitment. Refer to chapter 8 for the standards for each.

5-40.3b The EOS or responsible AO staff member should send letter of deficiencies to the contractor by the most expedient means available, e.g., mailgram.

5-40.4 Conciliation. The EOS shall attempt to conciliate the correction of deficiencies discovered in the course of the preaward review. Substantive deficiencies shall be corrected pursuant to a conciliation agreement, and minor, non-substantive deficiencies pursuant to a letter of commitment. Refer to chapter 8. Successful conciliation must be completed before the contractor may be found in compliance. See Policy Issuance No. 78-12 (February 27, 1978) regarding when conciliation agreements are normally required.

5-40.5 Special circumstances for which further conciliation is inappropriate.

5-40.5a Should the EOS encounter any of the following circumstances, the conduct of a preaward review is not practicable:

5-40.5a1 When a contractor covered by 41 CFR Part 60-2 either refuses to submit an AAP when requested or has not developed and maintained an AAP;

5-40.5a2 When a contractor's AAP does not include some vital element required by 41 CFR Part 60-2 (such as the utilization analysis);

5-40.5a3 When a contractor engages in harassment of an EOS in the conduct of the review or attempts to raise serious impediments to the conduct of the review (such as denying access to the premises or refusing access to relevant records, or threatening bodily harm).

NOTE: Sections 5-40.5a1 and 5-40.5a2 may not be applicable to prospective contractors that have not previously been subject to 41 CFR Part 60-2. Such prospective contractors are permitted 120 days from the commencement of the contract to develop and implement an acceptable AAP (Refer to 41 CFR 60-1.40(c)).

5-40.5b If any of the above circumstances is present, the following steps should be taken:

5-40.5b1 The AOD should notify the ARA by telephone (on the day of the occurrence) and transmit the following information: the name of the contractor, the location of the establishment involved, the deadline date for award of the proposed contract, and the circumstances involved. The AOD should retain the case file at the AO to await receipt of instructions for filing preparation and routing.

5-40.5b2 The ARA should, in turn, notify the Branch of Procurement Coordination, NO, by telephone on the same day, transmitting the above information.

5-40.5b3 Under these circumstances, neither the ARA nor the AOD shall issue a notice to show cause without explicit instructions to do so from the Director, OFCCP, through the Branch of Field Liaison, NO. Neither shall the ARA or the AOD grant or deny EEO clearance; all such clearances or denials shall be made by the Director or his designee or by the ARA upon specific instructions to do so from the Director or his designee. The ARA shall refer any inquiries regarding such clearances to the Branch of Procurement Coordination, NO.

5-40.6 Addressing problems under 41 CFR Parts 60-250 and 60-741. Neither of these parts currently provides specific authority for the conduct of preaward reviews. The EOS should therefore not address deficiencies under these parts in the context of the preaward review. Nevertheless, the EOS should note apparent violations under these parts so that the contractor may be scheduled for a subsequent compliance review encompassing Parts 60-250 and 60-741.

5-40.7 Findings. By the deadline for completion of the preaward review, the contractor must be found in compliance (including completion of a conciliation agreement and/or letter of commitment, where appropriate) or a finding of noncompliance must be made. If conciliation has failed, the AOD or designee shall notify the RO of the contractor's compliance status and prepare the file for transmittal to the RO.

(Date)

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Ms. Sally Smith
President
Nowhere Widget Works
Nowhere, Pennsylvania 15219

Dear Ms. Smith:

We have completed the review of your equal employment practices required by 41 CFR 60-1.20 prior to the award of a contract with (name of agency).

Our review of your establishment at (location) indicates that your firm may not be able to comply with the Executive Order and its implementing regulations. Enclosed is a list of the deficiencies we have identified along with citations to the relevant sections of the regulations and the prescribed corrective actions.

To ensure timely award of the pending contract, you must be found in compliance by (expiration date for the 30-day preaward period). Should we be unable to find you in compliance, it will be necessary to so inform the contracting officer, who may then initiate actions which could result in your being declared nonresponsible for award of the contract.

There are two avenues of administrative review open to you. First, under 41 CFR 60-1.24(c)(4), you may request a hearing if you believe that the findings and corrective actions required of you are erroneous. However, to be eligible for hearings under this section, you must come into compliance by entering into a conciliation agreement which encompasses all corrective actions prescribed herein, and you must file your request for a hearing with the Director within 10 days of signing the conciliation agreement. To ensure timely notice of compliance to the contracting officer, conciliation must be achieved no later than (expiration date for the 30-day preaward period).

You may also request a hearing under 41 CFR 60-2.2(b) if you believe that your status of noncompliance, and thus your status of responsibility, raises substantial issues of law or fact to the extent that a hearing is required. A request for hearing under this section must be filed with the Director and must set out the basis on which you believe substantial issues of law of fact are present.

Figure 5-1 Sample Letter of Deficiencies

If you wish to avail yourself of the procedures under section 60-2.2(b), you may file your request for a hearing within five days of receipt of this letter. A telegram, mailgram or telephonic request is sufficient to initiate the process as long as it is followed within a further five days by a written response which fulfills these conditions. The Director's address is: Director, Office of Federal Contract Compliance Programs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 (Attention: Branch of Procurement Coordination). (Telephone: 202-523-9915).

Please notify this office within five days of receipt of this letter so that we may commence conciliation. Initiating conciliation in no way precludes you from requesting a hearing under sections 60-1.24(c)(4) or 60-2.2(b). A telephonic, telegraphic, or mailgram response will be sufficient to commence conciliation. The address is carried on the letter head above; the telephone number is (AOD's phone number).

Should we receive no response within seven days of the date of this letter, a hearing to determine your compliance status under the Executive Order for award of the contract will be arranged, and you will be notified of the procedures to be followed.

Sincerely,

(AOD or Designee)

Enclosure

Figure 5-1 Sample Letter of Deficiencies

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CHAPTER 6. COMPLAINT INVESTIGATION AND RESOLUTION

6-10 Purpose.

6-10.1 EOSs should use the procedures in this chapter as a guide for the receipt, investigation and resolution of complaints alleging discrimination by Government contractors.

6-20 General Administration.

6-20.1 OFCCP should generally investigate all complaints that appear to involve systemic or class type discrimination.

6-20.2 The RO shall ensure that:

6-20.2a Copies of all complaints alleging discrimination under EO 11246 shall be sent to EEOC. Generally, complaints alleging discrimination of solely an individual nature under EO 11246 are not investigated by OFCCP. Complaints from covered veterans and the handicapped (41 CFR Parts 60-250 and 60-741) are investigated by OFCCP.

6-20.2b Complaints from disabled or Vietnam era veterans alleging discrimination by a Federal agency are referred to the EEO office of the appropriate agency.

6-20.2c Complaints from disabled veterans alleging discrimination by a recipient of Federal financial assistance or Federal grants are referred to the EEO office of the funding agency.

6-20.2d Complaints from the handicapped alleging discrimination by a Federal agency are referred to the EEO office of the appropriate agency.

6-20.2e Complaints from the handicapped alleging discrimination by a recipient of Federal financial assistance or Federal grants are referred to the EEO office of the funding agency.

6-20.2f Complaints from TEROs alleging discrimination are referred to the AO. Refer to Section 2-10.2.

6-30 Applicability.

6-30.1 These procedures apply to complaints received alleging discrimination on the following bases:

6-30.1a Race or color.

6-30.1b National origin (Hispanic).

6-30.1c Sex.

6-30.1d Religion, as described in 41 CFR Part 60-50.

6-30.1e National origin other than Hispanic, covered under 41 CFR Part 60-50. (Members of various ethnic groups primarily but not exclusively of Eastern, Middle and Southern European ancestry.)

6-30.1f Veterans, covered by 41 CFR Part 60-250.

6-30.1g Handicapped, covered by 41 CFR Part 60-741.

6-30.2 When deemed necessary, a full or limited compliance review shall be conducted in connection with any complaint investigation.

6-30.2a Full compliance reviews should normally be conducted whenever:

6-30.2a1 The complainant alleges systemic or class-type discrimination; and

6-30.2a1a The contractor's establishment has never had a compliance review, or

6-30.2a1b The contractor's establishment has been reviewed in the past, but the previous review was completed more than two years prior to the filing of the complaint.

6-30.2a2 The complainant alleges discrimination, systemic or otherwise, against covered veterans or the handicapped and the contractor's establishment has never been reviewed.

6-30.2b At the discretion of the ARA, limited compliance reviews may be conducted whenever:

6-30.2b1 The contractor's establishment has been reviewed for EO 11246 compliance and the previous review was completed within two years from the filing of the complaint.

6-30.2b2 An individual complaint under the Executive Order is being investigated.

6-30.2b3 The complaint from a covered veteran or the handicapped is filed and the contractor had an EO 11246 review which was completed within two years from the filing of the complaint. In that case, the compliance review may be limited to determining compliance with 41 CFR Parts 60-250 and 60-741.

6-40 Filing Complaints.

6-40.1 Who may file. Any person who believes that he/she has been discriminated against in employment by a covered Government contractor or subcontractor, or a covered federally assisted construction contractor or subcontractor on the basis of race, color, religion, sex or national origin, or any person who believes that he/she has been discriminated against in employment by a covered government contractor or subcontractor on the basis of handicap or covered veteran status, can file a complaint personally or through authorized representatives. Third parties also can file complaints on behalf of individuals or classes without their consent.

6-40.2 Timeliness. Complaints must be filed within 180 days of the alleged violation unless the time for filing is extended by the Director or ARA for good cause shown.

6-40.2a For a covered veteran/handicapped applicant or employee, the complaint may include the contractor's failure to extend the "invitations" prescribed by 41 CFR 60-250.5(d) and 60-741.5(c)(1).

6-40.3 The AO or RO may accept complaints.

6-40.3a Veterans may file complaints with the Veterans Employment Service of DOL through the Local Veterans Employment Representative (LVER) or his designee at the local state employment office. The complaint should be promptly referred to the appropriate RO.

6-40.3b Complaints received by the NO or AO shall normally be referred to the RO.

6-40.4 Form and content. Complaints must be reduced to writing and whenever possible should be on Forms CC-1a or CC-3. Refer to Figures 6-1 and 6-2. Complaints should include:

6-40.4a Name, address, telephone number of the complainant.

6-40.4b Name, address, telephone number of the contractor.

6-40.4c Name, and telephone number/extension of an official of the contractor having knowledge about the complaint.

6-40.4d Description of the alleged discriminatory acts and dates of occurrence.

6-40.4e Name of government agency with which the contractor has a contract or other information that will assist in establishing coverage (if known).

6-40.5 Missing Information. Complainants are not expected to know all the technicalities of drafting complaints. Where complaints do not include all necessary information, the missing information will be requested using either complaint Form CC-1a or CC-3. If the necessary information is not furnished within 60 days after it is requested, the complaint may be closed.

Note: Prior to initiating the onsite investigation and/or discussion with the contractor, the EOS should normally interview the complainant to obtain additional information regarding the alleged violation and the relief sought in resolution of the alleged discriminatory act(s). The EOS should provide the complainant with a Notification Form Concerning the Privacy Act of 1974 (Figure 6-17) and ask if the complainant consents to disclosure of personally identifiable information (Figure 6-18). If he/she does not so consent, the investigation shall nonetheless continue.

6-40.6 Supporting Information. Other information in support of the complainants' allegations should be obtained, either at the time of filing or at a future date, but prior to the investigation. Such information includes:

6-40.6a Names of contractor's employees who allegedly discriminated.

6-40.6b Names of employees who may have witnessed the alleged acts.

6-40.6c Specific and detailed circumstances surrounding the acts.

6-40.6d Information about the contractor's organizational structure.

6-40.6e Information about the contractor's products or services.

6-40.6f Information about the contractor's status as a prime contractor or subcontractor.

6-40.6g Information about the contractor's seniority system, lines of progression, etc., as relevant.

6-40.7 Complaints based on handicapped status. The complainant shall furnish a signed statement that the individual is handicapped; or has a history of a handicap; or other documentation of impairment; or was regarded by the contractor as having an impairment.

6-40.8 Complaints based on veteran's status. The complainant shall furnish a copy of his/her separation Form DD-214. For complaints based on disabled veteran status, he or she also shall file a certificate of the percentage disability issued by the Veterans Administration, updated within a year prior to the date of the complaint, as applicable.

6-50 Receipt and Initial Processing.

6-50.1 Regional Office. The RO should receive all complaints. (Those initially received by AOs should be forwarded to the RO within 24 hours of receipt.)

6-50.1a The RO should determine if the complaint is to be investigated by OFCCP. Refer to section 6-20.2a for guidance.

6-50.1a1 If the complaint is to be referred to the EEOC, refer to figure 6-3 for a sample letter of referral.

6-50.1a2 If the complaint is referred to the EEOC, refer to figure 6-4 for a sample letter of notification to the complainant. This letter should normally be sent to the complainant within 10 days of receipt of the complaint.

6-50.1b If the RO decides to investigate the complaint, it should normally;

6-50.1b1 Send an acknowledgement letter by certified mail to the complainant within 10 days of receipt of the complaint. Refer to figure 6-5.

6-50.1b2 Make a jurisdictional determination based on coverage and location of contractor.

6-50.1b3 Make a determination whether the employer is covered by the Executive Order. The employer is covered if it has contracts or subcontracts meeting any of the following criteria: 1) totalling in excess of $10,000 in any 12 month period; 2) Government bills of lading in any amount; 3) is a depository of Federal funds in any amount; 4) is a financial institution which is an issuing and paying agent for U.S. savings bonds and savings notes in any amount; 5) has at least one contract or subcontract with a value in excess of $10,000. NOTE: These standards apply only to Executive Order coverage. The law requires that employers who hold a federal contract or subcontract in excess of $2,500 are covered by Section 503, and $10,000 or more are covered under Section 402. Sources of information for determining whether an employer has a Federal contract or subcontract and the dollar amounts include, for example, the:

6-50.1b3a Dun & Bradstreet listing of Federal contractors.

6-50.1b3b List of Federal contractors available from the Equal Employment Opportunity Employer Information Report, SF-100 (EEO-1 report).

6-50.1b3c Agency PCOs if the preceding sources do not yield the necessary information.

6-50.1b3d Contractor, if the coverage still cannot be established. It is preferable to make a tentative determination of coverage from the other sources before resorting to contact with the contractor. Refer to Figure 6-6 for the appropriate letter format.

6-50.1b3e Branch of Procurement Coordination, NO, if all other sources for obtaining coverage have been exhausted.

6-50.1b4 Establish a non-valid complaint file for all complaints for which coverage is not established and/or the timeliness requirements have not been met. Maintain all documentation in this file, and arrange individual folder material in chronological order. Place the folders in alphabetical order. Refer to figures 6-7 and 6-8. Where a copy of the complaint was provided to EEOC under the OFCCP/EEOC Memorandum of Understanding, send a copy of the letter at Figure 6-8 to EEOC.

6-50.1b5 Assign case folder numbers and record all valid complaints in the complaint log, Figure 6-9.

6-50.1b6 Assign complaints to AOs based on geographical location of the contractor.

6-50.1c When a complaint is to be investigated by an EOS, and a complainant resides in a particular region, and the contractor is located in a different region, the RO in which the contractor is located will have jurisdiction over the complaint. All complaint information, including the completed Form CC-3, and if appropriate, the information from the initial interview is to be forwarded to the region in which the facility is located. The RO in which the complaint was filed is responsible for explaining the regional jurisdiction to the complainant. The RO in which the contractor is located shall have full responsibility for the resolution of the complaint and processing of the complaint to completion. If additional personal contact with the complainant, beyond the initial interview is required, the RO in which the complainant resides should cooperate in providing the missing information. It is expected that most contact can be made by telephone or by mail.

6-50.2 Area Office. The AO shall:

6-50.2a Record complaints in the complaint case assignment log (Figure 6-9).

6-50.2b Establish a complaint file and prepare a folder for each complaint.

6-50.2c For complaints which are retained by OFCCP, establish a suspense date, and attempt to complete the investigation within 60 days after receipt from the RO. See 41 CFR 60-1.24(d). In addition, where further information is requested from the complainant, see 41 CFR 60-1.23(b).

6-60 Referral to Contractor - 60-day Internal Review Procedure (Veterans/Handicapped)

6-60.1 If the complainant is an employee, and the employer is a covered contractor who has an internal review procedure, the AO should send the complaint to the contractor for resolution. (41 CFR 60-250.26(b) or 60-741.26(b)).

6-60.2 Where a complainant's employment has been terminated and he/she continues to have grievance rights or coverage under the terms of a collective bargaining agreement, the AO should refer the complaint to the contractor for processing under the internal review procedure.

6-60.3 The AO should initiate investigations of complaints from job applicants immediately.

6-60.4 The EOS should send a certified letter with a copy of the regulations to the contractor, return receipt requested, asking for notification within 10 days if it has an internal review procedure. Refer to Figure 6-10 for suggested letter format. The AO shall initiate the investigation if the response is negative.

6-60.5 The EOS should notify the complainant if the contractor has an internal review procedure. When the contractor uses this procedure, the 60-day period begins with the date of the certified letter. Refer to Figure 6-11 for suggested letter format.

6-60.6 If, at the completion of the contractor's internal review or at the expiration of the 60-day period, there has not been a satisfactory resolution of the complaint, the AO should initiate an investigation.

6-70 Resolution by Contractor (Veterans/Handicapped)

6-70.1 The EOS should obtain a written report from the contractor which provides the facts and issues, as well as the resolution of the complaint. Care should be exercised that the resolution is fair and just for both parties.

6-70.2 The EOS should obtain a written concurrence from the complainant that he/she is satisfied with the resolution. Refer to Figure 6-12 for suggested letter format.

6-70.3 The AO should recommend closing the complaint case if the resolution by use of the internal review procedure is satisfactory to the complainant. Submit the complete complaint folder, together with recommendations, to the DRO.

6-80 Complaint Investigation.

6-80.1 The EOS should develop a comprehensive plan to ensure that the investigation is complete, and will resolve all allegations in the complaint. The investigative plan should be developed based upon the kind of discrimination apparently involved in the case. Where the basis is race, sex, color, religion or national origin, most cases will probably involve either disparate treatment of the individual or class or adverse impact upon the individual's class by a neutral employment practice or policy of the contractor which may be facially neutral. See Figure 6-16 for a description of the lines of inquiry that should normally be pursued in investigations involving disparate treatment or adverse impact.

6-80.2 Where an onsite investigation is considered necessary, the EOS should notify the contractor and schedule a full or limited (Sections 402/503) onsite review and/or investigation. Additional specific information needed to complete the investigation should be requested in the notice to the contractor. Refer to figure 3-1a, "Guide for Selection of Additional Data for Onsite Review," for items to include in notice to the contractor.

6-80.2a The discussion during the opening conference with the CEO should include:

6-80.2a1 The basis for the complaint, i.e, race, color, religion, national origin, sex, handicap or veteran's status.

6-80.2a2 The issues under investigation.

6-80.2a3 The function of OFCCP as an enforcement agency, as needed.

6-80.2a4 The provisions of 41 CFR Chapter 60 pertinent to complaint investigations and compliance reviews.

6-80.2a5 The review and/or investigative procedure you intend to follow.

6-80.2a6 The information requested in the notification of onsite review and/or investigation to ensure that all data requested by the EOS have been furnished and explained.

6-80.2a7 The purpose of a close out conference. Note that final conclusions are not discussed at that time because all data must be fully analyzed.

6-80.2b The EOS should conduct an inspection tour of the contractor's facilities, early in the review/investigation. Refer to Appendices 6-A (Sections 402 and 503) and 6-B (EO 11246) for specific guidelines on the investigation.

6-80.2c The EOS should examine and obtain copies of all records needed to either affirm or deny the allegations in the complaint. Types of records peculiar to veterans/handicapped complaints are in Appendix 6-C and religions/national origin complaints, Appendix 6-D. Refer to Appendix 6-A for procedures in the case of medical disputes.

6-80.2d The EOS should conduct interviews to gather facts and verify information already obtained. Refer to Appendices 6-C and 6-D for sample formats of interview quesionnaires.

6-80.2d1 All information and materials collected in the investigation of a veteran/handicapped complaint are subject to disclosure to the complainant at any time during the investigation, under the Privacy Act. Therefore, the EOS should inform witnesses that information obtained from them is subject to disclosure to the complainant.

6-80.2d2 Individual employees who demand the presence of their personal representatives may have such representatives present, *provided* that such representatives are not also representatives for the contractor. In such instances, it may be necessary to conduct the interview off the premises of the contractor. The EOS shall note the presence of representatives in his/her interview notes.

6-80.2d3 Contractor representatives who make and implement policy (such that no distinction may be made between the individual and the contractor) may have the contractor's counsel present during their interviews, upon request by the contractor.

6-80.2d3a Except as specified above, a contractor may not make the presence of its counsel or other representatives a condition of access to employees.

6-80.2d3b An attempt by a contractor to prevent interviews without the presence of its representatives is a basis for enforcement action. Enforcement will not normally be delayed until the investigation ends, since the issue of access to information is separate from that of discrimination.

6-80.2e The EOS should make an offsite analysis of data gathered during the compliance review and/or complaint investigation, if required.

6-80.2f The EOS should conduct an exit conference. Procedures for the exit conference applicable to the compliance review are in chapter 3-170. The EOS may present a summary of obvious deficiencies to the CEO during the meeting. The EOS should emphasize to the contractor that the findings are only preliminary. No conclusions can be drawn until the analysis of all data collected is complete, and each allegation is either affirmed or denied. Official notification of findings will be issued at the conclusion of the offsite analysis.

6-90 Investigative Report

6-90.1 The EOS shall prepare a written report of findings of the investigation. The report should include:

6-90.1a Name of complainant.

6-90.1b Contractor and facilities investigated.

6-90.1c Date(s) of onsite investigation.

6-90.1d Statement of jurisdiction, including date and amount of contract(s).

6-90.1e Statement of allegations.

6-90.1f Description of the contractor's corporation/company, establishment.

6-90.1g Summary of investigation.

6-90.1h Summary of conclusions.

6-100 Notification of Results of Investigation.

6-100.1 After the completion of the offsite analysis, the EOS should issue a Notification of Results of Investigation to the contractor. Both the contractor and the complainant should be notified of the findings.

6-100.2 The EOS should include the following, as shown in Figure 6-13 and 6-14, in the Notification of Results of Investigation whether or not a violation is alleged.

6-100.2a The address of the contractor.

6-100.2b The basis for coverage of the contractor.

6-100.2c The findings of the investigation for each allegation or issue in the complaint.

6-110 Administrative Review Procedures.

6-110.1 The Director may, for reasonable cause shown, reconsider any determination on his/her own motion or pursuant to a request. See 41 CFR 60-1.24(c)(5).

6-110.1a In the case of veterans/handicapped complaints, the complainant or his/her representative may request the Director to reconsider a "no violation" determination. The request should be supported by affidavits and/or other documentation.

6-110.1b Requests for reconsideration which are received by the AO or RO should be referred to the Director.

6-110.2 The NO should notify the contractor that the Director is reconsidering the determination. The AO should submit a duplicate case folder to the Division of Program Operations, NO.

6-110.3 If there is insufficient documentation, or information in the case folder for the NO to make a determination on the case, the RO should be directed to obtain the necessary data.

6-110.4 Upon completion of the reconsideration, the Director should issue to the contractor, complainant and RO a decision either to uphold, modify or reverse the RO decision.
If the decision of the Director reverses a RO determination of no violation, follow the conciliation and enforcement procedures in this chapter.

6-120 Conciliation of Complaint

6-120.1 The EOS may meet with the contractor to conciliate the complaint at any time during the investigation or immediately upon completion. The EOS shall include all remedies conciliated in a written conciliation agreement or a letter of commitment, as appropriate.

6-120.2 Settlement before completion of investigation. The EOS should always be prepared to discuss settlements at any stage of the investigation. The conciliation procedures set out in this chapter or in chapter 8, as well as the remedies in chapter 7, should be used in developing this settlement if the following conditions exist:

6-120.2a The preliminary investigation established coverage of the contractor; and

6-120.2b The EOS has collected enough evidence to ensure that a settlement will provide a just resolution of the issues.

6-120.3 Before engaging in conciliation discussions, the EOS should advise the contractor that:

6-120.3a There is no prejudice to the position of the contractor for participating in conciliation sessions prior to completion of the investigation, or for refusing to participate in these discussions.

6-120.3b Participation in conciliation sessions will not be construed as any evidence of a waiver of the Government's right to proceed to a formal Notification of Results of Investigation if the conciliation sessions are unsuccessful.

6-120.4 Settlement after Completion of Investigation. After the completion of the investigation, the AO issues a Notification of Results of Investigation (violation), if there is a violation finding. A single notice may be issued if violation of both the Executive Order and Sections 402/503 programs is alleged. This formal notice invites both the complainant and contractor to conciliate. Note: Show cause notices are not required in Executive Order and Sections 402/503 complaint cases.

6-120.4a If no agreement can be reached to conciliate a Section 402/503 complaint, the RO shall refer the matter to the Director, OFCCP, or his designee, who shall afford the contractor an opportunity for a hearing in accordance with 41 CFR 60-250.29 or 60-741.29.

6-120.5 Generally, the complainant should not be present during the conciliation sessions. However, the EOS should keep the complainant informed of the progress, in order to gather further input and to discuss proposed settlements. The NO may be helpful in providing additional assistance.

6-130 Conciliation Agreement.

6-130.1 The EOS shall reduce to writing in an agreement the resolution and remedies conciliated.

6-130.2 Remedies included in the conciliation agreement may embody one or more of the following:

6-130.2a Hiring or full reinstatement to the position in question, including all benefits such as but not exclusively seniority, medical, vacation, and sick time.

6-130.2b Recovery of lost or back wages. DOL should assure that correct and full wage payments are made, where applicable.

6-130.2c Award of full retirement benefits and/or seniority, where applicable.

6-130.2d Removal of adverse comments from employee's personnel record.

6-130.2e Revision of job description or physical standards of the job.

6-130.2f Revision of the contractor's policies and procedures.

6-130.2g Adoption of an acceptable AAP.

6-130.2h Posting of prescribed notices.

6-130.2i Revision of employment practices, including but not limited to the following: hiring, upgrading, transfer, rates of pay, or other forms of compensation, and selection for training, including apprenticeship and on-the-job training programs.

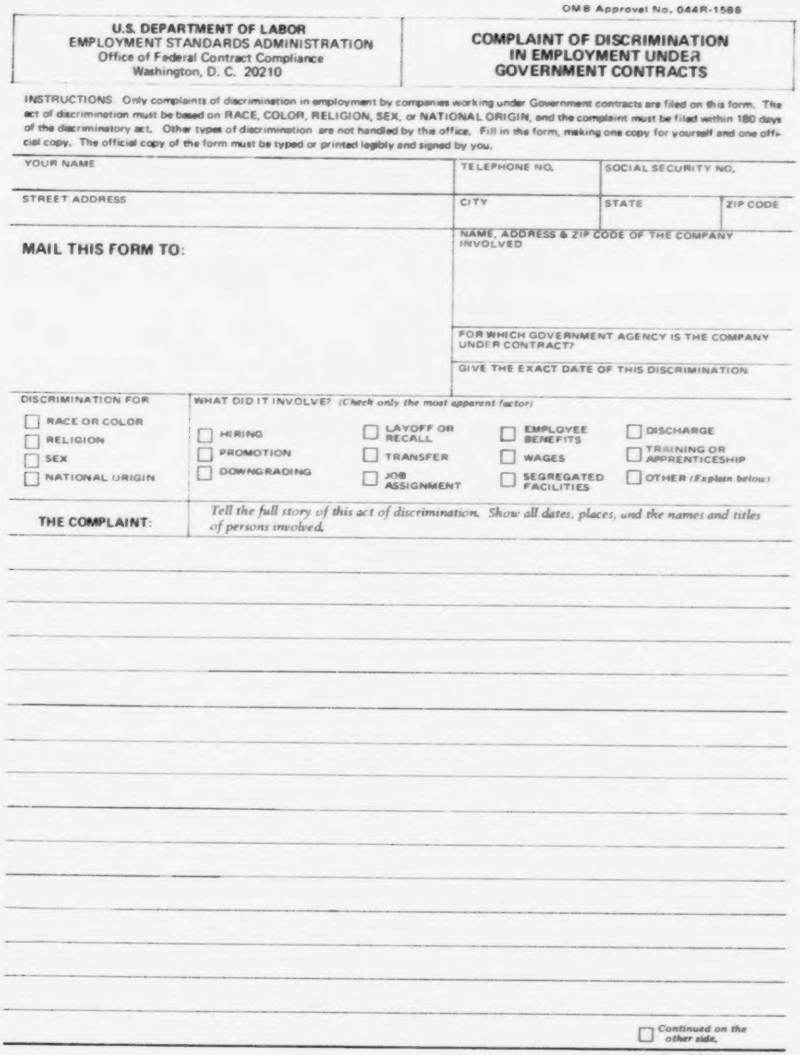
6-130.2j Implementation of reasonable accommodations.

6-130.3 Refer to chapter 8 for the terms and format of a conciliation agreement and figure 6-15 for model clauses concerning various remedies.

6-140 Enforcement. If any matter raised in the notification letter cannot be resolved through conciliation, it should be processed for enforcement. Refer to chapter 8.

6-140.1 Veterans/Handicapped Complaints. Since there are no provisions for show-cause notices in Sections 402 and 503 which address the veterans and handicapped programs, the RO should recommend that administrative enforcement proceedings be initiated immediately. However, these enforcement proceedings should be delayed pending the outcome of any show-cause issuances resulting from unresolved EO 11246 compliance review activity.

6-140.2 EO 11246 complaints. Refer to chapter 8 for procedures on the preparation of show-cause notices and sample formats.



OMB Approval No. 044R-1586

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
Office of Federal Contract Compliance
Washington, D. C. 20210

COMPLAINT OF DISCRIMINATION IN EMPLOYMENT UNDER GOVERNMENT CONTRACTS

INSTRUCTIONS: Only complaints of discrimination in employment by companies working under Government contracts are filed on this form. The act of discrimination must be based on RACE, COLOR, RELIGION, SEX, or NATIONAL ORIGIN, and the complaint must be filed within 180 days of the discriminatory act. Other types of discrimination are not handled by this office. Fill in the form, making one copy for yourself and one official copy. The official copy of the form must be typed or printed legibly and signed by you.

YOUR NAME

TELEPHONE NO.

SOCIAL SECURITY NO.

STREET ADDRESS

CITY

STATE

ZIP CODE

MAIL THIS FORM TO:

NAME, ADDRESS & ZIP CODE OF THE COMPANY INVOLVED

FOR WHICH GOVERNMENT AGENCY IS THE COMPANY UNDER CONTRACT?

GIVE THE EXACT DATE OF THIS DISCRIMINATION

DISCRIMINATION FOR

☐ RACE OR COLOR
☐ RELIGION
☐ SEX
☐ NATIONAL ORIGIN

WHAT DID IT INVOLVE? *(Check only the most apparent factor)*

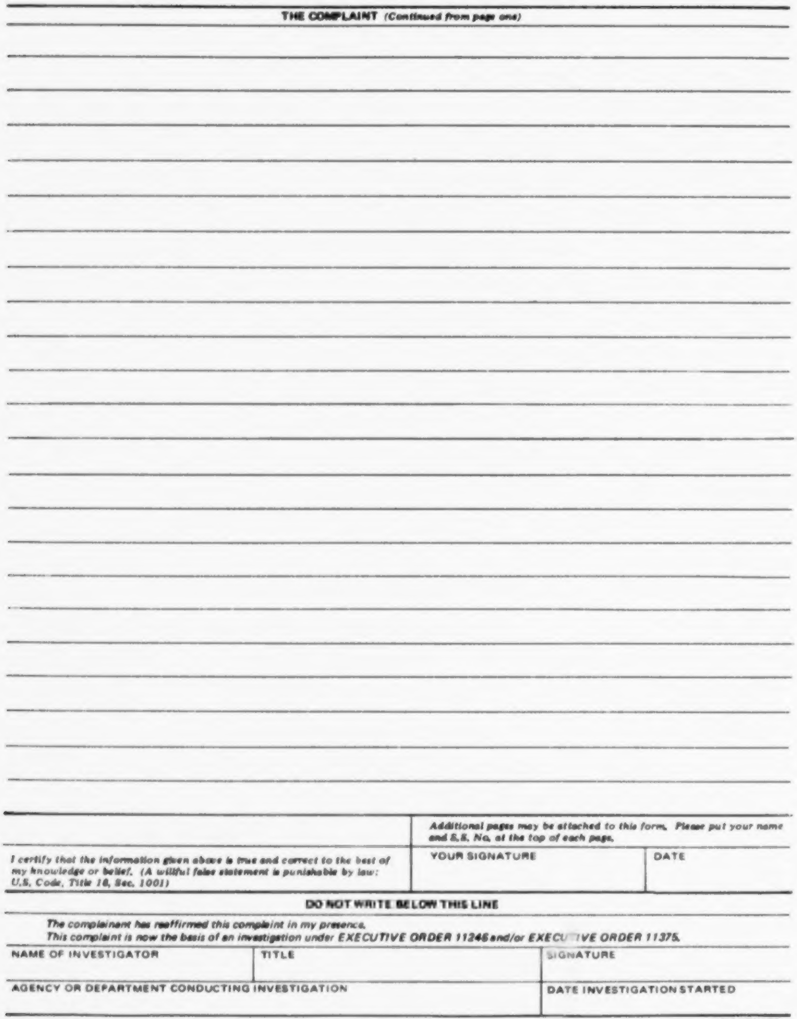
☐ HIRING
☐ PROMOTION
☐ DOWNGRADING
☐ LAYOFF OR RECALL
☐ TRANSFER
☐ JOB ASSIGNMENT
☐ EMPLOYEE BENEFITS
☐ WAGES
☐ SEGREGATED FACILITIES
☐ DISCHARGE
☐ TRAINING OR APPRENTICESHIP
☐ OTHER *(Explain below)*

THE COMPLAINT: *Tell the full story of this act of discrimination. Show all dates, places, and the names and titles of persons involved.*

☐ *Continued on the other side.*

Form CC-1a
Dec. 1974

Figure 6-1



THE COMPLAINT *(Continued from page one)*

	Additional pages may be attached to this form. Please put your name and S.S. No. at the top of each page.
I certify that the information given above is true and correct to the best of my knowledge or belief. (A willful false statement is punishable by law: U.S. Code, Title 18, Sec. 1001)	YOUR SIGNATURE DATE

DO NOT WRITE BELOW THIS LINE

The complainant has reaffirmed this complaint in my presence.
This complaint is now the basis of an investigation under EXECUTIVE ORDER 11246 and/or EXECUTIVE ORDER 11375.

NAME OF INVESTIGATOR	TITLE	SIGNATURE
AGENCY OR DEPARTMENT CONDUCTING INVESTIGATION		DATE INVESTIGATION STARTED

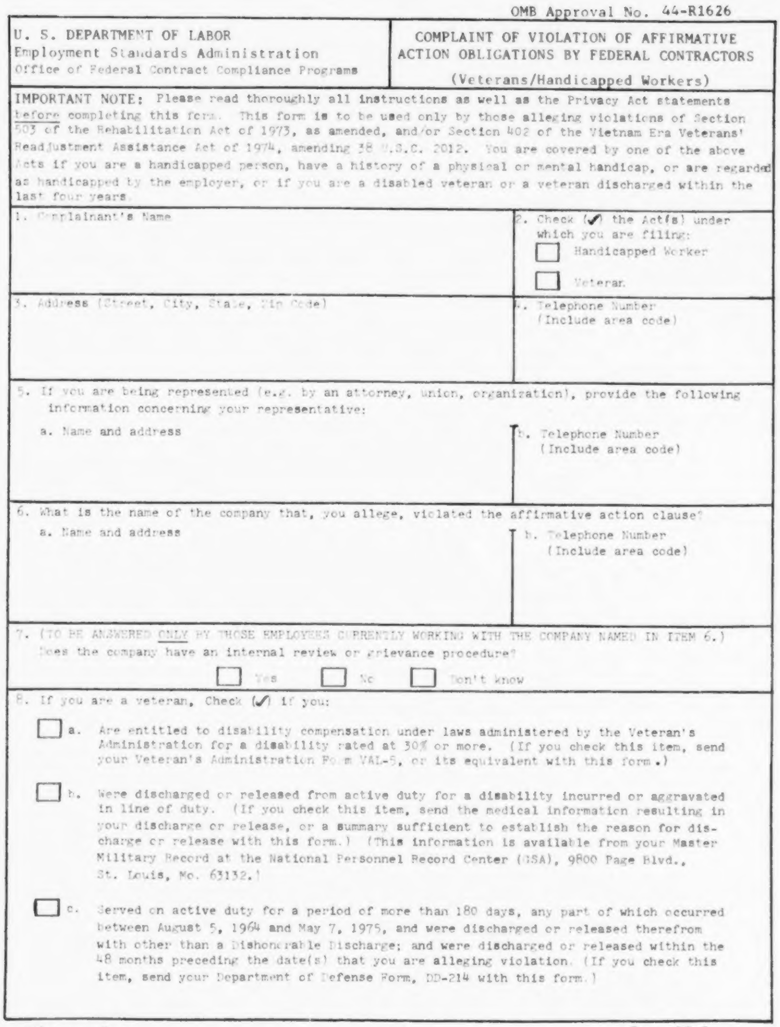
GPO 888-100

Figure 6-1

Supplementary Sheet

Section 206(b) Executive Order 11246 provides the Department of Labor the authority to investigate complaints of discrimination in employment under Government contracts. Under no circumstances will penalities be imposed against complainants. The reason for collecting or maintaining this information is to determine if in fact a discriminatory act as covered by the Executive Order, exists, and/or that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex or national origin. The complaint form may be disclosed to one or more other Federal agencies depending on the type of complaint filed, and/or in the course of presenting evidence in a public hearing including possible disclosure to opposing counsel and/or to the Office of Management and Budget in connection with the review of private relief legislation. Failure on the part of the complainant to tell the full story of the act of discrimination, such as dates, places, names and titles of persons involved could effect the remedy of the discriminatory act. Disclosure of your social security number is voluntary; the failure to disclose such number will not impede the processing of your complaint.

Supp. for CC-1
CC-1a



OMB Approval No. 44-R1626

U. S. DEPARTMENT OF LABOR Employment Standards Administration Office of Federal Contract Compliance Programs	COMPLAINT OF VIOLATION OF AFFIRMATIVE ACTION OBLIGATIONS BY FEDERAL CONTRACTORS (Veterans/Handicapped Workers)

IMPORTANT NOTE: Please read thoroughly all instructions as well as the Privacy Act statements before completing this form. This form is to be used only by those alleging violations of Section 503 of the Rehabilitation Act of 1973, as amended, and/or Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, amending 38 U.S.C. 2012. You are covered by one of the above Acts if you are a handicapped person, have a history of a physical or mental handicap, or are regarded as handicapped by the employer, or if you are a disabled veteran or a veteran discharged within the last four years.

1. Complainant's Name	2. Check (✓) the Act(s) under which you are filing: ☐ Handicapped Worker ☐ Veteran
3. Address (Street, City, State, Zip Code)	4. Telephone Number (Include area code)

5. If you are being represented (e.g. by an attorney, union, organization), provide the following information concerning your representative:

a. Name and address	b. Telephone Number (Include area code)

6. What is the name of the company that, you allege, violated the affirmative action clause?

a. Name and address	b. Telephone Number (Include area code)

7. (TO BE ANSWERED ONLY BY THOSE EMPLOYEES CURRENTLY WORKING WITH THE COMPANY NAMED IN ITEM 6.) Does the company have an internal review or grievance procedure?

☐ Yes ☐ No ☐ Don't know

8. If you are a veteran, Check (✓) if you:

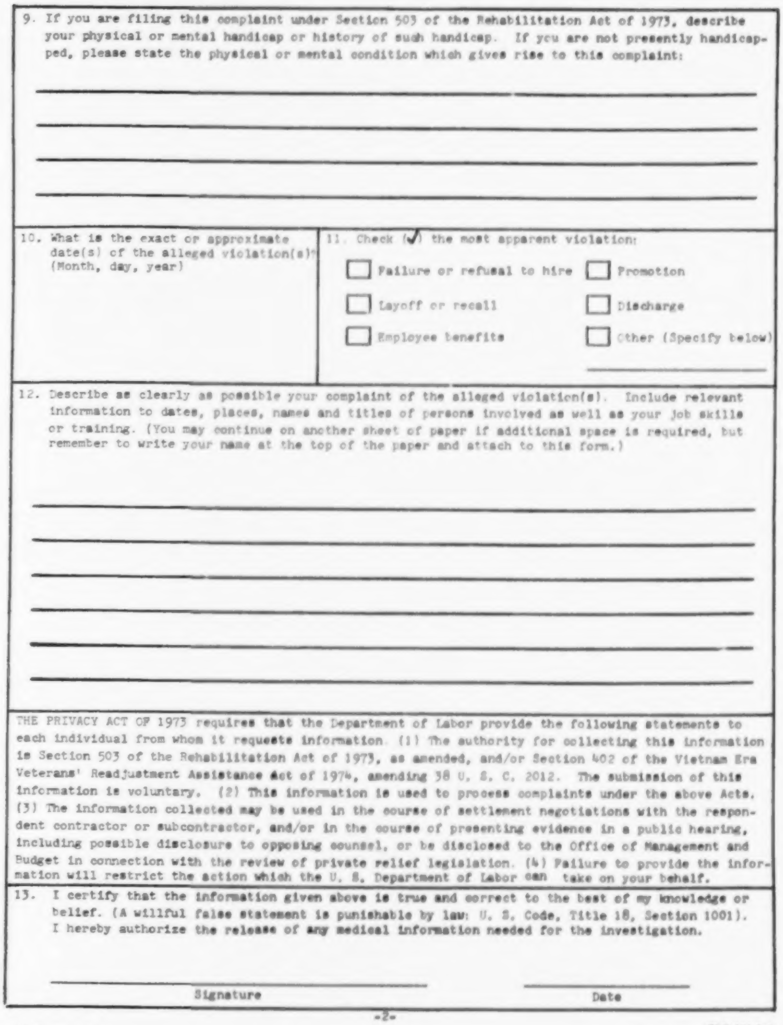
☐ a. Are entitled to disability compensation under laws administered by the Veteran's Administration for a disability rated at 30% or more. (If you check this item, send your Veteran's Administration Form VAL-5, or its equivalent with this form.)

☐ b. Were discharged or released from active duty for a disability incurred or aggravated in line of duty. (If you check this item, send the medical information resulting in your discharge or release, or a summary sufficient to establish the reason for discharge or release with this form.) (This information is available from your Master Military Record at the National Personnel Record Center (GSA), 9800 Page Blvd., St. Louis, Mo. 63132.)

☐ c. Served on active duty for a period of more than 180 days, any part of which occurred between August 5, 1964 and May 7, 1975, and were discharged or released therefrom with other than a Dishonorable Discharge; and were discharged or released within the 48 months preceding the date(s) that you are alleging violation. (If you check this item, send your Department of Defense Form, DD-214 with this form.)

Figure 6-2

Form CC-3



9. If you are filing this complaint under Section 503 of the Rehabilitation Act of 1973, describe your physical or mental handicap or history of such handicap. If you are not presently handicapped, please state the physical or mental condition which gives rise to this complaint:

____

____

____

____

10. What is the exact or approximate date(s) of the alleged violation(s)? (Month, day, year)

11. Check (✓) the most apparent violation:

☐ Failure or refusal to hire
☐ Layoff or recall
☐ Employee benefits
☐ Promotion
☐ Discharge
☐ Other (Specify below)
____

12. Describe as clearly as possible your complaint of the alleged violation(s). Include relevant information to dates, places, names and titles of persons involved as well as your job skills or training. (You may continue on another sheet of paper if additional space is required, but remember to write your name at the top of the paper and attach to this form.)

____

____

____

____

____

____

THE PRIVACY ACT OF 1973 requires that the Department of Labor provide the following statements to each individual from whom it requests information. (1) The authority for collecting this information is Section 503 of the Rehabilitation Act of 1973, as amended, and/or Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, amending 38 U. S. C. 2012. The submission of this information is voluntary. (2) This information is used to process complaints under the above Acts. (3) The information collected may be used in the course of settlement negotiations with the respondent contractor or subcontractor, and/or in the course of presenting evidence in a public hearing, including possible disclosure to opposing counsel, or be disclosed to the Office of Management and Budget in connection with the review of private relief legislation. (4) Failure to provide the information will restrict the action which the U. S. Department of Labor can take on your behalf.

13. I certify that the information given above is true and correct to the best of my knowledge or belief. (A willful false statement is punishable by law: U. S. Code, Title 18, Section 1001). I hereby authorize the release of any medical information needed for the investigation.

______________________ Signature

______________ Date

-2-

GPO [illegible]

Figure 6-2

FORMAT FOR REFERRAL TO THE EEOC (EO)

Dear

Pursuant to a Memorandum of Understanding between the Office of Federal Contract Compliance Programs (OFCCP) and the Equal Employment Opportunity Commission (39 F.R. 35855, October 4, 1974), the enclosed complaint filed by __(name of complainant)__ against __(name and address of company)__ is being referred to you for processing under Title VII of the Civil Rights Act of 1964, as amended.

The complainant has been notified of the referral and has been told that you will be in touch with him/her regarding further processing of the complaint.

Sincerely,

(ARA)

Enclosure

cc: (complainant)

Figure 6-3

FORMAT FOR NOTIFICATION TO COMPLAINANT OF REFERRAL TO THE EEOC (EO)

Dear (Name of Complainant):

This will acknowledge receipt of your complaint against (name and location of employer) under the provisions of Executive Order 11246, as amended.

The Office of Federal Contract Compliance Programs does not normally process complaints involving discrimination against a single individual. Accordingly, your complaint is being referred to the United States Equal Employment Opportunity Commission for processing under Title VII of the Civil Rights Act of 1964, as amended. A copy of the referral is enclosed for your information. The (office location) EEOC office should be in contact with you about further processing. If you have any questions, you may contact:

(name, address and tele-

phone number of EEOC

office)

Sincerely,

(ARA)

Enclosure

Figure 6-4

ACKNOWLEDGEMENT OF RECEIPT OF COMPLAINT FORMAT

Dear (name of complainant):

This is to acknowledge receipt of your complaint against (name of employer), under the provisions of (Executive Order 11246), (Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974), (Section 503 of the Rehabilitation Act of 1973, as amended).

We must first determine whether we have jurisdiction over your complaint and can process it. If we establish jurisdiction, your complaint shall be forwarded to one of our area offices for investigation. That office will contact you during the investigation. We shall contact you directly, however, in the event that jurisdiction is not with the Office of Federal Contract Compliance Programs.

Sincerely,

(ARA)

Figure 6-5

SAMPLE LETTER TO CONTRACTOR ON COVERAGE WHERE THAT ISSUE IS IN DOUBT AND THE INFORMATION CANNOT BE OBTAINED FROM OTHER SOURCES

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dear (Contractor):

This office has received a complaint from an individual alleging discrimination occurring on approximately (date), because he/she is covered under the provisions of (Section 503 of the Rehabilitation Act of 1973, as amended, or Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, or Executive Order 11246), as amended.

In order for us to make a determination of jurisdiction over the complaint of alleged discrimination, please submit to this office a signed statement indicating if your organization is or is not a Government contractor or subcontractor (see 41 CFR 60-1.3, 60-250.2 or 60-741.2, copies of which are enclosed). If you indicate that you are a Government contractor or subcontractor, include reference to any contract or contracts in effect on date of the alleged violation which meet the criteria set forth in 41 CFR 60-1.5(a)(1) (copy enclosed), 60-250.1 or 60-741.1, providing the dates the contracts were awarded, expiration dates, dollar amounts, contract numbers, and names of contracting agencies. Your reply should be received by this office within 14 days from the date of this letter.

Sincerely,

(ARA)

Enclosure

Figure 6-7

SAMPLE NO-COVERAGE
LETTER TO COMPLAINANT

Dear (Name of Complainant):

After careful review of your correspondence, we have determined that our office does not have jurisdiction: (1) over the matter about which you have complained, and/or (2) over the establishment about which you have complained. Your complaint is being closed because * ______________________

____

____.

If you have any further questions, you may contact:

Agency ____

Address ____

City and State ______________________ Zip Code ____________

Sincerely,

(ARA)

*(1) Complaint was filed more than 180 days after the alleged discriminatory act and you were not able to show good cause for an extension of time.

(2) The employer is not a government contractor or subcontractor.

(3) You do not meet the definition of disabled or Vietnam Era veteran, or handicapped, as defined by the law.

Figure 6-8

SAMPLE REFERRAL LETTER

Dear ____________________:

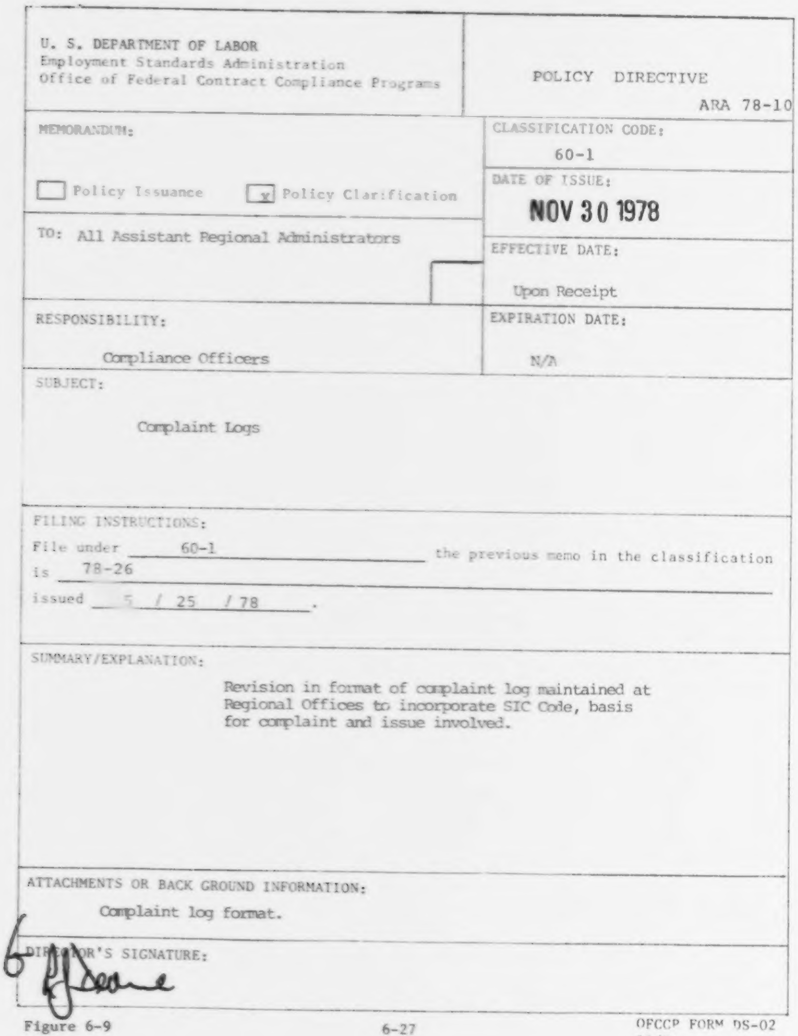
Enclosed is a complaint of discrimination against ____(Contractor/Grantee)____.

We have determined that we do not have jurisdiction in this matter. We believe that the authority for handling the case rests with your agency. The complainant has been notified that the complaint is being referred to your office of review and appropriate action.

Sincerely,

(ARA)

Figure 6-8



U. S. DEPARTMENT OF LABOR
Employment Standards Administration
Office of Federal Contract Compliance Programs

POLICY DIRECTIVE
ARA 78-10

MEMORANDUM:

☐ Policy Issuance ☒ Policy Clarification

CLASSIFICATION CODE: 60-1

DATE OF ISSUE: NOV 30 1978

TO: All Assistant Regional Administrators

EFFECTIVE DATE: Upon Receipt

RESPONSIBILITY: Compliance Officers

EXPIRATION DATE: N/A

SUBJECT:

Complaint Logs

FILING INSTRUCTIONS:

File under 60-1 the previous memo in the classification is 78-26 issued 5 / 25 / 78 .

SUMMARY/EXPLANATION:

Revision in format of complaint log maintained at Regional Offices to incorporate SIC Code, basis for complaint and issue involved.

ATTACHMENTS OR BACK GROUND INFORMATION:

Complaint log format.

DIRECTOR'S SIGNATURE:

OFCCP FORM DS-02
10/76

Figure 6-9

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
Office of Federal Contract Compliance Programs
WASHINGTON, D.C. 20210

NOV 30 1978

POLICY CLARIFICATION ARA 78-10/60-1

MEMORANDUM FOR: ALL ASSISTANT REGIONAL ADMINISTRATORS

FROM: f WELDON J. ROUGEAU
Director

SUBJECT: Complaint Logs

The attached complaint log format for Regional Offices will replace the format included in my September 28, 1978 memo (Attachment IV). Area Office logs will remain the same. The revised regional form places responsibility for the determination of respondent's SIC code in the Region. In addition, for each complaint referred to an Area Office, one of the following codes will be placed in the Basis column and the Issue column as appropriate.

BASIS:

N ☐ ☐ Race-Black
O ☐ ☐ Race-Asian-American
I ☐ ☐ Race-Native-American
R ☐ ☐ Race-Caucasian
Y ☐ ☐ Religion
V ☐ ☐ Veteran (402)
H ☐ ☐ Handicapped (503)

M ☐ ☐ Sex-Male
F ☐ ☐ Sex-Female
S ☐ ☐ National Origin-Hispanic
Z ☐ ☐ National Origin-Other
Q ☐ ☐ Multi-Bases/e.g., race & sex
K ☐ ☐ Color
X ☐ ☐ Other____________

ISSUE:

H ☐ ☐ Hiring
D ☐ ☐ Discharge
L ☐ ☐ Layoff
R ☐ ☐ Recall
W ☐ ☐ Wages
P ☐ ☐ Promotion
Y ☐ ☐ Demotion
S ☐ ☐ Seniority
C ☐ ☐ Job Assignment
T ☐ ☐ Training & Apprenticeship
Q ☐ ☐ Qualifications & Testing
A ☐ ☐ Advertising
B ☐ ☐ Job Benefits
Z ☐ ☐ Segregated Facilities
G ☐ ☐ Intimidation & Reprisal
M ☐ ☐ Maternity Leave Policy
N ☐ ☐ Inadequate A.A.P.
K ☐ ☐ Sabbath Day Observance
E ☐ ☐ Multi-Issues
F ☐ ☐ Other________________

Attachments

Attachment IV

COMPLAINT LOG

REGION ______________________

*Date forwarded to
appropriate agency,
Area Office, or re-
turned to complainant.

NAME OF COMPLAINANT	RESPONDENT (Company)	SIC CODE	DATE RECEIVED IN REGION	DATE PROCESS-ED *	WHERE ASSIGNED	CASE NO. ASSIGNED	BASIS	ISSUE	SUSPENSE DATE

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
Office of Federal Contract Compliance Programs
WASHINGTON, D.C. 20210

SEP 28 1978

MEMORANDUM FOR: ALL OFCCP ASSISTANT REGIONAL ADMINISTRATORS AND AREA OFFICE DIRECTORS

FROM: WELDON ROUGEAU
DIRECTOR, OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

FROM: Complaint Filing and Numbering Procedure for E.O. 11246, Section 503 and Section 402

Part I - Process

1. All complaints should be sent to and received in the regional office.

2. Those received in the area office will be forwarded to the RO within 24 hours. Referral log should be maintained showing name and address of complainant, and time and date of receipt in AO.

3. RO will review complaint for validity (is it within our jurisdiction), make appropriate disposition of non-valid complaints, and assign case file numbers and folders to valid complaints. Only complaints for which jurisdiction has been established will be assigned a case number.

4. All valid cases will be assigned by the regional office to an area office within 24 hours of establishment of validity.

Part II - Case File Numbering System

- Complaint identifier format: X-RA-FY-nnnn
  - X = complaint type by statute or Executive Order

    C = E.O. 11246 (Blue tab)

    H = Section 503 (Green tab)

    V = Section 402 (Red tab)

  - RA = R = regional office code (see attached) and the area office to which the case is assigned. For example, B = New York Region. All area office codes in New York Region begin with B. BC is the Long Island Area Office; the second letter identifies the particular area office.
  - FY = the fiscal year in which the complaint is received. Each year all complaint numbering begins over again.
  - nnnn = sequential number assigned by RO to each valid complaint. The first case received each fiscal year would be "0001".
- Examples:
  - The Atlanta RO received its first complaint, in October, 1978, dates it, finds it to be a valid E.O. 11246 complaint, and assigns is a number. The complaint will be handled by the Atlanta Area Office. The number would be: C-DA-79-0001.
  - The second complaint that the Atlanta RO receives proves invalid. No folder. It was an E.O. 11246 complaint, but individual, so it is recorded in the RO referral log as having been sent to EEOC. A photocopy of the letter is kept in a letter file.

- The third complaint received in the Atlanta Office is found to be a valid 503 complaint. This is the second valid complaint. It is being assigned to the Charlotte, North Carolina Area Office since that office is nearest to the complainant and respondent. The case would be coded: H-DC-79-0002.

Attachments

I. Area Office Codes
II. Format for AO Complaint Receipt Log
III. Area Office Assignment Log
IV. Format for RO Complaint Log
V. Legal Referral

Attachment I
continued

Region	Code	Area Office	Code
V - Chicago	E	Chicago, IL (North)	EA
		Chicago, IL (Central)	EB
		Chicago, IL (South)	EC
		Cleveland, OH (East)	ED
		Cleveland, OH (West)	EE
		Columbus, OH	EF
		Detroit, MI (North)	EG
		Detroit, MI (South)	EH
		Gary, ID	EI
		Grand Rapids, MI	EJ
		Indianapolis, ID (East)	EK
		Indianapolis, ID (West)	EL
		Milwaukee, WI	EM
		Minneapolis, MN	EN
		Peoria, IL	EO
VI - Dallas	F	Albuquerque, NM	FA
		Dallas, TX	FB
		Fort Worth, TX	FC
		Houston, TX	FD
		Little Rock, AR	FE
		New Orleans, LA	FF
		San Antonio, TX	FG
		Tulsa, OK	FH
VII - Kansas City	G	Kansas City, MO	GA
		Omaha, NB	GB
		St. Louis, MO	GC
VIII - Denver	H	Denver, CO	HA
		Salt Lake City, UT	HB
IX - San Francisco	I	Honolulu, HI	IA
		Los Angeles, CA (Central)	IB
		Los Angeles, CA (North)	IC
		Phoenix, AZ	ID
		San Diego, CA	IE
		San Francisco, CA	IF
		Oakland, CA	IG
		San Jose, CA	IH
		Santa Ana, CA	II
X - Seattle	J	Anchorage, AK	JA
		Portland, OR	JB
		Seattle, WA	JC

Attachment I

DOL Regional - Area Office Coding Structure

Region	Code	Area Office	Code
I - Boston	A	Boston, MA	AA
		Bridgeport, CT	AB
		Hartford, CT	AC
		Providence, RI	AD
II - New York	B	Albany, NY	BA
		Buffalo, NY	BB
		Long Island, NY	BC
		Newark, NJ	BD
		New York City, NY	BE
		San Juan, PR	BF
		Syracuse, NY	BG
		Trenton, NJ	BH
		White Plains, NY	BI
III - Philadelphia	C	Baltimore, MD	CA
		Philadelphia, PA	CB
		Pittsburgh, PA	CC
		Reading, PA	CD
		Richmond, VA	CE
		Washington, DC	CF
IV - Atlanta	D	Atlanta, GA	DA
		Birmingham, AL	DB
		Charlotte, NC	DC
		Columbia, SC	DD
		Jackson, MS	DE
		Jacksonville, FL	DF
		Louisville, KY	DG
		Memphis, TN	DH
		Miami, FL	DI
		Nashville, TN	DJ
		Orlando, FL	DK
		Raleigh, NC	DL

Attachment II

Area Office Complaint Case Referral Log

Incoming Complaints

Date Received	Complainant	Date Forwarded to RO

Attachment III

Area Office Complaint Case Assignment Log

Date Received	Complainant	Corporation or Company	EOS Assigned	Action 1/ Out/Date	Date Closed	Case No.

1/ e.g., referral to SOL, to NO, and to RO for review.

Attachment IV

Regional Office - Complaint Log

Date Received	Complainant	Corporation or Company	Date Established	Suspense Date 1/	Case No. Assigned	Date Referred	Referre Where

Note: On all complaints referred out Organization/Entity, a photocopy should be put in a letter file, alphabetically by claimants name.

1/ e.g., EEOC.

Attachment V

Referral to Legal

Date of Referral	Case Number	Claimant vs. Respondent	Issue	Disposition	Date of Disposition	Other

SAMPLE LETTER TO CONTRACTOR NOTIFYING OF COMPLAINT/REQUEST FOR INTERNAL REVIEW

Re:

Dear (name of contractor):

We have received a complaint from (name of complainant) alleging ________ because he/she is handicapped/disabled veteran/Vietnam era veteran.

Section 503 of the Rehabilitation Act of 1973, as amended, (or section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974) prohibits all Government contractors and subcontractors having contracts in excess of $2,500 ($10,000 or more) from discriminating in their employment practices against handicapped individuals (disabled veterans or veterans of Vietnam era). Such action shall apply to employment practices, including, but not limited to: hiring, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. A copy of the regulations at 41 CFR Part 60-741 (41 CFR Part 60-250) explaining the application of the Act to contractors is enclosed for your information.

Please refer to 41 CFR 60-250.26(b) [41 CFR 60-741.26(b)] which states that if you have an applicable internal procedure, 60 days will be allocated to resolve the complaint internally. Should you have such a procedure and intend to use it, notify this office immediately in writing and we shall provide you with a copy of the complaint. If we do not hear from you within ten days, an investigation will be promptly initiated to resolve the complaint.

Please understand that this letter is neither a prejudgment of the issues nor an implication that your firm has violated any law. It is an attempt to resolve the matter as expeditiously as possible. If you have any questions, the telephone numbers of this office are ________________________________.

Sincerely,

(AOD or Designee)

Enclosure
  Regulations 41 CFR Part 60-741 (41 CFR Part 60-250)

Figure 6-10

SAMPLE LETTER TO COMPLAINANT ON INTERNAL REVIEW PROCEDURES

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dear (Name of Complainant):

On (date), we received your letter/complaint form alleging a violation by Federal contractor of its affirmative action obligations under Section 503 of the Rehabilitation Act of 1973, as amended (Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974).

The regulations require that your employer be afforded the opportunity to process your complaint first through an internal review procedure, if it has established one for handicapped employees (disabled veterans and veterans of the Vietnam era). The purpose of the internal review procedure is to review the complaint of the employee who alleges discrimination in violation of Section 503 (Section 402), and to attempt to resolve it in a manner satisfactory to both parties.

We shall proceed with the processing of your complaint if either of the following conditions exists:

1. The employer does not have an internal review procedure, or
2. If there has not been a resolution of the complaint under the internal review procedure satisfactory to you within sixty (60) days of the referral.

This office will keep you informed of the status of your complaint.

Sincerely,

(AOD or Designee)

Figure 6-11

SAMPLE LETTER FOR RESOLUTION THROUGH INTERNAL REVIEW

Dear (name of complainant):

This letter is to verify that there has been a satisfactory resolution to your complaint filed against (name of contractor), under (Section 503 of the Rehabilitation Act of 1973, as amended), (Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974) through the internal review procedure.

If you are satisfied with the resolution of your complaint and agree that your complaint file be closed, please sign on the line indicated below and return this letter to us in the enclosed stamped envelope.

Sincerely,

(AOD)

There has been a satisfactory resolution to my complaint filed against (name of contractor). I request that the case be closed.

Signature ______________________________

Date ______________________________

Figure 6-12

NOTIFICATION LETTER, VIOLATION

Complainant's name COMPLAINANT

Street

City Zip

Company name CONTRACTOR

Street

City Zip

NOTIFICATION OF RESULTS OF INVESTIGATION

On (date) the Office of Federal Contract Compliance Programs, U.S. Department of Labor conducted an investigation of the allegation(s) of (type) discrimination made in the complaint of (name of complainant) filed on (date). Our investigation has resulted in the following findings:

1. The (name of contractor) is a government subcontractor and is not exempt from (cite appropriate jurisdictional basis, e.g.)[Executive Order 11246, as amended,/Section 503 of the Rehabilitation Act of 1973, as amended,/Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974].

Figure 6-13

2. (Name of complainant) is a handicapped individual/veteran/minority/female within the meaning of Section 503 of the Rehabilitation Act of 1973, as amended/ Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974/ Executive Order 11246, as amended, and the regulations at 41 CFR Chapter 60, as appropriate.

3. The complainant alleges the contractor violated its obligations under the nondiscrimination and affirmative action provisions of its Federal contract by (separating, not promoting, etc.).

4. The contractor's position is that the complainant was (separated, not hired, etc.) because ______________________________.

5. Our investigation indicates that the complainant has (or the contractor regards the complainant as having) (describe handicap/veteran status and the situation or refer to protected class) ____________.

6. Our investigation further indicates that the contractor has (describe contractor's actions) ______________________________.

7. The actions described in paragraph 5 above violated the contractor's obligations under the regulations as follows: (list sections violated and describe violations) ______________________________.

In accordance with the regulations implementing the handicapped individuals, veterans, and Executive Order 11246 programs (cite 41 CFR 60-741.26(2), 60-250.26(2) and 60-1.24 (c)(2), as appropriate), the Department now invites (name of contractor) to join with it to resolve this matter through conciliation by informal means. An Equal Opportunity Specialist from this office will be in contact with (name of contractor) within ten days to begin the conciliation process.

On behalf of the United States Department of Labor

____
(ARA) Date

Region ____________________

Figure 6-13

NOTIFICATION LETTER, NON-VIOLATION

____________________ COMPLAINANT
Complainant's name

____
Street

____
City Zip

____________________ CONTRACTOR
Company name

____
Street

____
City Zip

NOTIFICATION OF RESULTS OF INVESTIGATION

On (date) the Office of Federal Contract Compliance Programs, U.S. Department of Labor conducted an investigation of the allegation(s) of (type) discrimination made in the complaint of (name of complainant) filed on (date). Our investigation has resulted in the following findings:

1. The (name of contractor) is a government contractor and is not exempt from (cite appropriate jurisdictional basis, e.g.)[Executive Order 11246, as amended,/Section 503 of the Rehabilitation Act of 1973, as amended,/Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974].

Figure 6-14

2. (Name of complainant) is a handicapped individual/veteran/minority/female within the meaning of Section 503 of the Rehabilitation Act of 1973, as amended/ Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974/ Executive Order 11246, as amended, and the regulations at 41 CFR Chapter 60, as appropriate.

3. The complainant alleges the contractor violated its obligations under the nondiscrimination and affirmative action provisions of its Federal contract by (separating, not promoting, etc.).

4. The contractor's position is that the complainant was (separated, hired, etc.) because ____________________________.

5. Our investigation indicates that the contractor (describe contractor's actions) ____.

6. Based on the findings of this investigation, there was insufficient evidence to conclude that the contractor has violated its obligations under the nondiscrimination and affirmative action provisions of Section 503/Section 402/Executive Order 11246, as amended. Therefore, the Department's processing of this complaint is hereby concluded.

As set forth in (cite 41 CFR 60-1.24(c)(5)/41 CFR 60-250.26(g)/41 CFR 60-741.26(g), as appropriate), the Director of the Office of Federal Contract Compliance Programs may, for reasonable cause, reconsider or order the reconsideration of this determination. If you desire reconsideration you should address a written request to Director, OFCCP, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Such a request should be accompanied by affidavits, signed testimony of supervisory or fellow workers, or other written documentation that would substantially alter our findings in this case.

On behalf of the United States Department of Labor

__________________(ARA)__________________ Date ______________

Region ________________________

Figure 6-14

MODEL CLAUSES

(A) Failure or Refusal to Hire Clauses

1. Immediate Employment of Complainant. Contractor agrees to offer immediate employment to the complainant in the position of (job title) at a pay rate of $____________________. This offer will be in writing by certified letter, return receipt requested. Within thirty (30) days after receipt of this offer, the complainant shall accept it or notify contractor that the contractor's offer of employment is declined.

2. Back Pay and Front Pay. Contractor agrees to reimburse the complainant in the amount of $_______________ in back pay. This amount is the pay complainant would have earned, plus interest, minus interim earnings, if the complainant had been employed by the contractor during the period between the date of rejection and the expiration of the thirty day period provided to enable complainant to accept contractor's offer of employment. Legal and payroll deductions may be made and paid to the appropriate parties.

In addition, the contractor agrees to reimburse the complainant $________ in front pay. The front pay covers the period from the date complainant accepts employment to the projected date that complaint will reach his/her "rightful place." The front pay is computed by subtracting the projection of complainant's actual earnings for the period stated above from the projection of the amount complainant would have earned during that period if he/she been hired on the date he/she was rejected for employment. Legal and payroll deductions may be made and paid to the appropriate parties.

3. Fringe Benefits Retroactive Seniority. Contractor agrees to make those contributions and adjustments that would have been made to complainant's group life insurance plan, company savings plan, retirement or pension plan, and other fringe benefits that would have accrued if the complainant had been hired at the time when the complainant was rejected, and will adjust complainant's seniority to that which would have occurred if hired at the time of rejection.

4. Affirmative Performance Report. Contractor agrees that on (date , it will provide to (name of investigator) a report on its offer of employment to the complainant, the payment of back pay, and the restoration of seniority and fringe benefits. The report will include as attachments photocopies of the contractor's letter offering employment to the complainant the certified mail return receipt signed by the complainant, and other relevant documents.

(B) Failure to Promote Clauses

1. Promote Complainant. Contractor agrees to promote immediately the complainant to the position of (job title) at a pay rate of $_____

Figure 6-15

or to a position comparable in pay, duties and benefits which is acceptable to the complainant.

2. Back Pay and Front Pay. Contractor agrees to reimburse the complainant in the amount of $__________. This amount is the difference between the pay earned by the complainant and the pay which the complainant should have earned if he (or she) had been promoted on ___(date)___, plus interest. Legal and payroll deductions may be made and paid to the appropriate parties.

In addition, the contractor agrees to reimburse the complainant $________ in front pay. The front pay covers the period from the date complainant is promoted to the projected date that complainant will reach his/her "rightful place." The front pay is computed by subtracting the projection of complainant's actual earnings from the period stated above from the projection of the amount complainant would have earned during that period if he/she had been promoted on the date he/she was rejected for promotion. Legal and payroll deductions may be made and paid to the appropriate parties.

3. Fringe Benefits and Retroactive Seniority. Contractor agrees to make contributions and adjustment which would have been made to complainant's group life insurance, company savings plan, retirement or pension plan and other fringe benefits and will adjust complainant's seniority to that which would have accrued if the complainant had been promoted to ___(date)___.

4. Affirmative Performance Report. Contractor agrees that ___(date)___, it will provide to ___(name of investigator)___ a report describing which positions were offered and which position the complainant accepted, the back pay granted, and describing the manner in which the adjustment of seniority and fringe benefit was made. The report shall include as attachments copies of the normal documentation associated with these transactions.

(C) Discharge Case Clauses

1. Reinstatement of Complainant. Contractor agrees to reinstate immediately the complainant as an employee in good standing without loss of seniority.

2. Back pay. Contractor will reimburse in the amount of $_______. This is the amount complainant would have earned, minus interim earnings, but for the contractor's dismissal during the period between the date of discharge and the date of reinstatement. Legal and payroll deductions may be made and paid to the appropriate parties.

3. Fringe Benefits and Retroactive Seniority. Contractor agrees to make those contributions and adjustments that would normally have been made to the complainant's group life insurance plan, company savings plan, retirement or pension plan and other fringe benefits, and will restore to the

complainant seniority rights and to that which would have accrued had the complainant not been dismissed.

4. Expungement of Unsatisfactory Entries from Personnel Records. The contractor agrees to remove from its records and files any notations, remarks, or other indications indicating that the service performed by the complainant prior to the determination, and in connection with the determination, were other than, or anything less than, satisfactory. The contractor further agrees that, in furnishing verbal or written references concerning the complainant, as may be requested by the complainant or by prospective future employers, the contractor will exclude all reference to this discharge and the events and judgments connected with it.

SUGGESTED LINES OF INQUIRY WHEN APPARENT DISCRIMINATION BASED UPON DISPARATE TREATMENT OR ADVERSE IMPACT

Normally both disparate treatment and adverse impact should be pursued and the steps shown below followed. If the information provided by the complainant is sufficient to eliminate one approach, then only those steps relevant to the other type of discrimination need normally be followed.

Step 1. Identify the basis (race, sex, etc.) and issues (hiring, discharge, etc.)

Step 2. Obtain the contractor's description of the policy or normal practice in situation similar to the one under investigation.

Step 3. Describe the treatment of the complainant or the complainant's class and compare it with the contractor's description of the policy or normal practice. See Step 2, above.

Step 4. Describe the treatment of others who are not of the complainant's class.

a. Determine the time frames within which to examine the treatment of others.

b. Define the universe of employees within which the treatment of others will be examined. The universe is normally determined by: the scope of the policy or practice involved or the scope of authority of the decision maker involved.

c. Describe the treatment of individuals of the same racial religious, national origin or sex as the complainant including those who were also treated negatively (e.g. also discharged) and those who were not treated negatively (e.g. not discharged) in the same or similar kinds of circumstances.

d. Describe the treatment of individuals of different racial, religious, national origin or sex than the complainant including those who were also treated negatively and those who were not treated negatively in the same or similar kinds of circumstances.

Figure 6-16

Step 5. If there is a pattern of different treatment of individuals in the complainant's class from the treatment afforded individuals of other classes, obtain the contractor's explanation. Determine the validity of the explanation.

Step 6. If no disparate treatment can be determined, examine for adverse impact.

Step 7. If there is adverse impact, obtain the contractor's explanation. Determine the validity of the explanation.

NOTIFICATION FORM CONCERNING THE PRIVACY ACT OF 1974

The Privacy Act of 1974, Public Law 93-579, effective on September 28, 1975, protects against the unauthorized use of personally identifiable data by any agency of the Federal Government. The Act provides tht the following information concerning this data collection be supplied to you:

1. AUTHORITY FOR SOLICITATION OF INFORMATION. Executive Order 11246 provides that Federal contractors and contractors performing on federally-assisted construction projects will not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex or national origin. Under Sections 202, 203, 205, and 206 of the Executive Order, as well as its implementing regulations (41 C.F.R. Chapter 60).

2. PRINCIPAL PURPOSE FOR WHICH INFORMTION IS TO BE USED. Pursuant to a complaint, the Office of Federal Contract Compliance Programs (OFCCP) will be conducting an investigation to ensure compliance with the legal authority cited in praragraph above. The information collected will be analyzed by OFCCP in order to determine compliance. This collection and analysis may require discussion and/or verification with other persons, who may have information pertinent to your complaint, of information we obtain concerning you. We may find it necessary to reveal to such persons the source of information which you give to us, although such action is rare.

3. ROUTINE USES OF THE INFORMATION. In addition to ascertaining compliance with the legal authority mentioned above, information will be used in advising (name of establisment) of its compliance status. The other routine uses of this data would be to secure approval for and to bring administrative or judicial enforcement proceedings where compliance cannot be secured by voluntary means.

4. EFFECTS OF NOT PROVIDING THE REQUESTED INFORMATION. While no sanctions will be imposed on you if you do not provide information requested by OFCCP, failure to supply information pertinent to your complaint may make its investigation unduly burdensome of OFCCP and may ultimately result in administrative closure of your case.

Absent your consent, OFCCP will not disclose to anyone personally identifable information about you, except to the extent that such disclosure involves a routine use described above, and except as required by law. Under the Freedom of Information Act, no such information is required to be disclosed to the public until resolution of (name of establishment) compliance status; and during and after the conclusion of the investigation, regulations precludes disclosure to the public of information (1) of a personal and private nature, or (2) having a commercial, financial, or professional value, which is, in fact, confidential, and in which the person providing the information has a proprietary interest.

5. INDICATION OF RECEIPT. I have received a copy of this notification form, and have retained a copy for my records.

____________________ (DATE)

____ (SIGNATURE)

Figure 6-17

CONSENT FORM FOR DISCLOSURE UNDER THE PRIVACY ACT OF 1974

The Privacy Act of 1974, Public Law 93-579, effective on September 28, 1975, protects against the unauthorized use of personally identifiable information by any agency of the Federal Government. The Act requires that any individual about whom information is kept in a personally identifiable manner must, except under certain circumstances, give explicit consent to the disclosure of such information. The consent for disclosure must be in writing, and must indicate to whom information may be disclosed, what information may be disclosed, and the time period during which the information may be disclosed.

Pursuant to the Privacy Act, I hereby (do/do not) consent to OFCCP's disclosure of personally identifiable information about me, which pertains to investigation of my complaint of (Type of discrimination: race, sex, etc.) discrimination against (name of establishment), such disclosure to be made only (1) during the course of OFCCP's investigation to ascertain compliance by (name of establishment), with the requirements of Executive Order 11246, (2) to persons who may have information pertinent to my complaint; and (3) to the extent necessary to conduct a thorough investigation concerning the above-mentioned complaint (e.g., to obtain and verify information pertinent to compliance).

____________________ (DATE)

______________________________ (SIGNATURE)

Figure 6-18

INVESTIGATION GUIDELINES FOR VETERANS AND HANDICAPPED COMPLAINTS

Physical Inspection of Facilities - The EOS should tour the plant during the initial visit. During the tour, the EOS should observe the work area where the complainant worked or would have worked; inspect for physical accessibility to the premises; look for posters and observe if any special equipment, devices, or accommodations are being used for handicapped workers and disabled veterans; inquire about the contractor's capability for developing such accommodations.

Since there are no provisions for goals and timetables in the veterans and handicapped regulations, a careful review of personnel and medical records pertinent to the complaint is essential. Personnel and medical records will be highly relevant for all complainant-applicants and most complainant-employees. Cases involving physical job standards will require recourse to the records prescribed in the regulations at 41 CFR 60-741.6(b) and (c)/60-250.6(b) and (c). If the contractor refuses to submit or allow access to the requested medical/personnel information without signed releases from the complainant, the contractor should be informed of the requirements of 41 CFR 60-741.53 and/or 60-250.53. If the contractor still refuses or needs verification, after returning to his/her office, the EOS should send the contractor a letter specifically requesting the information citing the authority.

Medical Disputes

When medical disputes arise between complainant's and contractor's doctors, a third independent medical opinion must be obtained. An appropriate letter to the doctor rendering the third-party material opinion is a part of this appendix.

Procedures

(i) When such a medical opinion is needed, the EOS notifies the ARA in writing of the following:

Nature of dispute
Name and address of doctor selected. (Please see source listed below.)
Services required of doctor.
Estimated maximum cost of services.

Processing for the procurement of these services will be conducted by the RO.

After performing their specified services, doctors are to bill the NO, Attn: MSS through the RO. The bill is to be accompanied by a signed statement from the ARA attesting to the completion of the doctor's services.

(ii) Appropriate doctors may be identified by consulting the two-volume publication entitled "Director of Medical Specialists." This directory, which is revised annually, is published for the American Board of Medical Specialists by Marquis Who's Who. The volumes list only those doctors who have received certification by their appropriate specialty boards. Listings are arranged in alphabetical sequence according to the area of specialty. Within these specialties, doctors are listed by states and localities, and finally, by last name. The directory is available in eight of OFCCP's regional offices, where the Office of Workers' Compensation Programs (OWCP) also has offices and utilizes the directory in its programs. These offices are located in the following regions: Boston, New York, Philadelphia, Chicago, Kansas City, Denver, San Francisco, and Seattle. The Atlanta RO should contact the OWCP in Jacksonville, Florida and the Dallas RO should contact the OWCP in New Orleans, Louisiana, to obtain names of specialists. When this is not a workable solution, the regions should contact the NO to obtain the needed information.

(iii) Doctors should be informed that they may be asked to provide medical testimony in court. In addition, they should be provided with pertinent background information (such as appropriate job descriptions) to ensure that the examination focuses only on the job qualifications of the specific position for which the complainant applied. Previous medical opinions are not to be included with the background information as they may bias the third-party medical opinion. Refer to 41 CFR 60-741.6(c), and 60-250.6(c).

The interview questionnaire in Appendix 6-C may be used.

LETTER TO PHYSICIAN

CERTIFIED

Re:

Dear (name of Physician):

Pursuant to our telephone conversation, I would like to confirm the appointment of (name of complainant) on (date) at (time).

The purpose of the examination which you are going to perform, is to determine if (name of complainant) is capable of performing the job of (job title). This job requires (EOS describes the physical requirements of the job). The company's job description, including physical requirements, is enclosed.

(Name of complainant) has a history of ________________/disability of
____________.

According to (name of complainant's) doctor, (name of complainant) is able to perform the job without injury to himself/herself or others. (Name of complainant)'s medical records are enclosed.

After you examine (name of complainant), please submit to this office a report of your findings and a bill for your services. You may be called upon to give testimony regarding your findings in court.

Should you have any questions, please call me at (EOS's telephone number).

Sincerely,

(AOD)

Enclosures

cc: Complainant

INVESTIGATION GUIDELINES FOR RELIGION AND NATIONAL ORIGIN COMPLAINTS

Identification: Begin the investigation by identifying and interviewing employees of the same religion or ethnic group of the complainant.

Employees: Identify other members of the same protected group as the complainant for comparison purposes.

Obtain names from the complainant.

Obtain a current employee roster and attempt to identify by surname.

Obtain names of other known group members from interviewees, such as applicants, employees, supervisors, etc.

Applicants:

Attempt to identify by surname applicants from the complainant's group from the applicant roster.

If the above provides fruitless, examine a representative sample of application forms for the following:

Parochial schools, high schools, and colleges;

Membership in religious or ethnic organizations;

Address, if from selection of community with concentrations of ethnic groups;

Contact local organizations, to find out if they know of any unsuccessful applicants from the group.

Interview unsuccessful appliants who can be identified. (Use guide.) Find out the facts of each individual case. Compare them with similarly qualified non-group applicants to see if there is evidence that they were treated differently.

Find out what the entry jobs are for the departments and lines of progression from which group members appear to be excluded or underrepresented, if any, and investigate applicants for those jobs. Identify the applicants for these jobs. Investigate and identify lines of progression, seniority and promotional practices, etc. relating to those jobs.

Investigate the company's recruitment policy by obtaining a list of the colleges and universities where the company recruits to see if there is a pattern of avoidance of schools with sizeable populations of the group.

Utilization Pattern: Once as many members of the protected group have been identified determine if there is a pattern and practice of placement in:

Certain departments, jobs, or lines of progression. Deadend jobs. Jobs with limited potential.

Comparison of Progress.

The careeer progression of identified employees should be compared with other employees who were hired at the same time with similar qualifications. Their initial placements and career progressions should be compared to see if there is any indication that the covered group employees are being treated differently from other employees.

Overseas Assignment.

Investigate the method of making overseas assignments to see if there is evidence of religious discrimination (e.g., Jews vis-a-vis Arab countries).

Are there particular lines of progression which lead to overseas assignments?

Do employees with overseas experience have any advantage in obtaining management jobs.

Private Clubs: Investigate the contractor's policy of paying membership fees in private clubs and the effects of such policies on the complainant and protected groups. Such clubs may be classified as business, social, professional, civic, political, religious, etc.

Terminations.

Obtain a listing of employees by name, race, and sex and reasons for terminations. Select for interview any who:

a. Were terminated for failure to work overtime or certain shifts:

b. Absenteeism.

Employee Grievances.

Determine if any employees were reprimanded or disciplined in any way because of:

Failure to work overtime;

Failure to work Friday evenings or Saturdays;

Making ethnic or religious jokes, slurs, or epithets (if so, to whom were they directed?).

Promotion.

Examine bids or other promotion procedures to determine whether bids, promotions, or transfers were rejected because of shift work, overtime, or Saturday work. The company's list of promotables should be examined to see if any of the identified employees appear on the list.

Interviews.

At the beginning of each interview the employee will be informed that it is not mandatory to particpate in the investigation; that we are not inquiring into their own individual religious preference, and that they do not have to answer any questions that may be objectionable to them. Stress that their participation is totally voluntary and their information will remain confidential.

The interview questionnaire in Appendix D may be used.

INTERVIEW FORMAT FOR COMPLAINT INVESTIGATION
(Veterans/Handicapped)

Before going onsite, the EOS should develop and go over the interview questionnaire format.

The EOS should tailor specific questions to obtain the necessary information to support or refute the complainant's allegation. Certain questions may be asked of complainant's witnesses, while different questions will be asked of the contractor's witnesses.

SAMPLE INTERVIEW QUESTIONNAIRE FORMAT

The following interview format is to serve as a guide for developing a minimum data base for processing a complaint. This format is to be used as a tool for interviewing complainant, contractor's of complainant's witness.

1. Name ______________________________

2. Address ______________________________

____

3. Social Security Number ______________ 4. Birthdate ______________

5. Telephone Number: Work ______________ Home ______________

6. The best time for you to be reached by telephone is ______________

7. Contractor complaint against:

Name ______________________ Telephone ______________

Address ______________________________

City ______________ State ______________ Zip ______________

Questions 8 and 14 are for current or former employees only.

8. How many employees in contractor's work force? ______________

How many employees on your shift/department? ______________

9. How were you discriminated against? ______________

____

____

____

____

10. Date of alleged discrimination ______________

11. What is your handicapping condition? ______________

____

What handicap does the contractor claim you have? ______________________

____

12. Are you currently under treatment for the condition? __________________

13. Are there any persons that you feel could provide evidence in your support?

NAME & ADDRESS, IF KNOWN	TITLE	TELEPHONE HOME	WORK

14. If you (complainant) were employed at the time of the discrimination, answer these questions:

A. Date hired ____

B. Date of discrimination ______________________________________

C. Job title and duties at time of discrimination ________________________

____

____

D. Are you currently employed? __________________________________

E. Name of immediate supervisor _________________________________

F. Name of other supervisors/management staff ______________________

____

____

G. Who makes decisions as to promotions/demotions/terminations?

____

____

H. Have you filed a grievance or has there been an internal review of your complaint? ______________________________________

I. Why do you think you were terminated/laid-off/denied promotion?

J. What were the reasons given to you for termination/demotion/denied promotion?

K. Were others terminated/demoted/denied promotion? Yes _____ No _____

Name	Address	Phone	Position

L. Were you evaluated on job performance? Yes __________ No __________

By whom?

How often?

M. Are other handicapped persons/disabled veterans/Vietnam era veterans employed by the contractor? Yes ______________ No ______________

15. If complainant was an applicant for employment and was not hired, ask the following questions:

A. For what type of job did you apply?

B. Why weren't you hired?

C. Who told you that you were not going to be hired?

best copy available

D. What reasons did this person give for your being rejected for employment? ______________________________

____

E. Were you advised by the employer that they are an affirmative action employer? ______________________________

F. Did you observe the poster entitled "Equal Employment Opportunity is the Law"? ______________________________

16. Do you have a complaint filed elsewhere on this matter? ______________

Where? ______________ When did you file? ______________

17. Since you were discriminated against, what have you done to resolve the complaint? ______________________________

18. Were you given a physical exam? ____________ By whom? ______________

19. Were you given an opportunity to demonstrate ability to do the job?

____________ How were you treated? ______________________________

Did you suggest accommodations? ______________________________

What was the company's reaction? ______________________________

____

____

20. What is your work experience? (jobs held; times)

Job	Dates	Duties

21. What kind of training do you have? ______________________________

22. Were you in the military service? Yes ________ No ________

Type of work you did in the military? ______________________________

23. What specifically would you like this office to do for you? ____________________

____

24. Do you have any questions/comments? ____________________

____

____

____

____________________ (Signature of Complainant)   ____________________ (Date)

____________________ (Signature of EOS)   ____________________ (Date)

INTERVIEW OF CONTRACTOR'S PERSONNEL STAFF

The following interview format is to serve as a guide for developing a minimum data base for processing a complaint. This format is to be used as a tool for interviewing the contractor's personnel staff.

1. NAME ______________________________

   ADDRESS ______________________________

   ____________________ TELEPHONE ______________

2. How long have you been employed by the contractor? ______________

3. What is your job title? ____________________

   a) Have you received any particular training on, or otherwise been exposed to, the problems faced by handicapped persons/disabled veterans/Vietnam era veterans? ____________________

   b) Are you aware of your employer's obligation under the Handicapped Workers Program and Veterans Program? ____________________

4. What definition of handicapped person/disabled veteran/Vietnam era veteran do you use in your personnel practice? ____________________

   ____

5. Who, if anyone, from the company has attended a meeting or discussed affirmative action as related to the handicapped with you?

   ____

6. Was the list of company's vacant positions available to you prior to the interview of ____(complainant)____ ? ____________________

7. Did you know the physical requirements for job vacancies prior to interviewing job applicants? ____________________

8. Does the job application contain information about the applicant's physical/mental condition/veteran status? ____________________

________________________ ____________________
(Signature of EOS) (Date)

QUESTIONNAIRE FOR PERSON DOING AAP REVIEW

Prior to asking the questions, request that the AAP policy, required to be posted by any contractor with a Federal contract or subcontract of $2,500/$10,000 or more (503/402), be specifically shown to you.

1. If required (contract of $50,000 or more and 50 or more employees) is there a written Affirmative Action Plan? ______________________
2. What is the name of executive for AAP? ______________________
3. Is personnel office accessible to handicapped applicants and employees?

   ____
4. Are there ramps or equipment which have been modified? ____________
5. Is a notice posted in a conspicuous place entitled "Equal Opportunity is the Law"? ______________________________

____
(Signature of EOS)

____
Date

NAME ______________________ TELEPHONE ______________

ADDRESS ____

I. GENERAL RESPONSIBILITIES OF CONTRACTOR

1. How many known qualified handicapped persons/veterans have been employed from ______________ to ________________

   (Name, job title, date of employment, salary and handicap)

   ____

   ____

   ____

2. How many known qualified handicapped persons/veterans have you advanced in employment between ____________ to ____________?

   (Name, job title, date of advancement, and handicap)

   ____

   ____

   ____

3. What personnel staff were selected and are they aware of the requirements of the Handicapped Workers Program/Veterans Program? ______

   ____

4. Have you notified subcontractors, vendors and suppliers of their affirmative action requirements? ____________________

5. How are known handicapped persons/veterans represented in company activities? ______________________________

   Evidence ________________________________

   ____

   ____

NAME ______________________ TELEPHONE ______________

ADDRESS ______________________________________

6. Does the union contract contain non-discrimination clauses?

____

Evidence ______________________________

____

____

______________________ Signature of Interviewer

______________________ Date

NAME ______________________________ TELEPHONE ____________________

ADDRESS ____

II. EXECUTIVE MANAGEMENT OF AFFIRMATIVE ACTION POLICY

7. Who is the executive manager of affirmative action activities?

____

Does the manager have final decision making authority?

____

8. What support and support services are provided to the Executive Manager for affirmative action? (Document and name persons).

____

____

____

____

9. Has the manager communicated scope and methods of AAP internally?____

a) How? ____

____

b) How often? ____

c) To whom? ____

10. Has the manager communicated scope and methods of AAP outside of the company? ____

a) How? ____

____

b) How often? ____

____

c) To Whom? ____

____

NAME ______________________ TELEPHONE ______________

ADDRESS ____

11. Has the manager designed and implemented AAP audit and reporting system for evaluations and corrective action? ______________

a) What kind of a system was designed? ______________

b) When was the system implemented? ______________

c) What corrective action has been taken as a result of the system? Document ______________

12. Is the manager liaison between contractor and enforcement agencies? Evidence ______________

13. Is the manager liaison between contractor and handicapped/veteran organization? ______________

14. Does the manager or manager's staff:

a) Offer career counseling for all handicapped employees/veterans?

NAME ______________________ TELEPHONE ______________

ADDRESS ______________________________________

1. Evidence of counseling program - how is it communicated to handicapped persons/veterans that such a program exists?

____

____

2. Who has received such counseling between ______________

to ______________________________________?

b) Evaluate training programs, hiring and promotion patterns to ensure that affirmative action is on-going.

Evidence ______________________________________

____

c) Evaluate each subsidiary as to their compliance to affirmative action ______________________________________

____

1. How many locations are there? ______________

2. Does each location have an AAP? ______________

Evidence ______________________________________

____

d) Inform supervisors that their work is evaluated on the basis of other AAP efforts and results. Evidence ______________

____

______________________ ______________

Signature of Interviewer Date

NAME ______________________________ TELEPHONE ______________

ADDRESS ____

III. RECRUITMENT

15. What is your policy on recruitment to ensure affirmative action for qualified handicapped persons/veterans? ______________

16. How do you inform applicants of your commitment to AAP?

17. What recruiting and training sources have been informed of AAP and with whom have you established working relationships? Be specific, give names and verify, if possible. ______________

18. With what rehabilitation agencies or Veterans Administration facilities have you established contacts, and from whom do you seek technical assistance and advice? ______________

19. Are your personnel officers provided with job descriptions to assist in recruiting handicapped persons/veterans?

NAME ______________________ TELEPHONE ______________

ADDRESS ______________________________________

III. RECRUITMENT

20. In what company activities do the handicapped employees and/or veteran employees participate? For evidence, interview a handicapped person/veteran ______________________

21. With what rehabilitation/Veterans Administration facilities and schools do you participate in work-study programs and on-the-job training? Specify names; document ______________________

IV. INTERNAL COMMUNICATIONS

22. How do you communicate your AAP and individual responsibilities to employees? ______________________

____
Name of Interviewee

______________________ ______________
Signature of Interviewer Date

NAME ______________________ TELEPHONE ______________

ADDRESS ____

V. ACCOMMODATIONS

23. Have you made reasonable accommodations for handicapped employees/ veteran employees? ______________________

____

a) Names, dates, job titles, accommodations ______________

____

____

24. What is your policy on medical inquiries of individuals?

____

____

a) Have you made such inquiries and under what circumstances? Give specifics of such instances. ______________

____

____

b) Do you have any across-the-board rules such as no diabetics, no persons with history of cancer, etc? ______________

____

c) Have any handicapped/veteran applicants or employees requested additional accommodations which you have not implemented?

____

What are they? ______________________________

NAME ______________________ TELEPHONE ______________

ADDRESS ______________________________________

VI. PUBLICATIONS

25. Is AAP included in company policy manual, posted on bulletin boards, publicized in company newspapers, magazines, etc.?

Evidence ______________________________________

26. Are both handicapped employees and non-handicapped employees pictured in public information activities, such as advertising?

Evidence ______________________________________

Date documents requested are to be submitted to OFCCP office:

____

Signature of Interviewer

Date

INTERVIEW FORMAT FOR COMPLAINT INVESTIGATION
(Religion and National Origin)

Name: ______________________

Title: ______________________ Department ______________

1. How long have you been employed by the company? What is your employment history with the company (jobs held, dates of promotion, rate of pay, etc.)?

2. If an applicant, what are the details (e.g., dates, persons spoken with, etc.) of your application process? ____________________________________

3. Are you aware of any contractor policy statements (formal or informal) relative to religious or national origin discrimination? Yes __________ No __________

4. Are you aware of any contractor policies which might be discriminatory? If so, what, where, when, etc.?________________________

5. Are you aware of any statements or actions of employees of the contractor which might have religious/national origin overtones? If so, who, what, where, when etc.?________________________
Is the contractor aware of these statements or actions? What evidence is there that the contractor is aware? _____________ Has the contractor done anything to stop such statements or actions?
If so, what, where, when etc.?______________

6. Have you requested to adjust your work schedule to observe the Sabbath or a religious holidays?
Yes _____________ No ___________________
If yes was request granted? Yes ___________
____

7. Do you know of anyone who has been refused employment or promotion because of his religion or national origin? If, so, who, what job, when, etc.? ______________
____

8. Do you have any (insert complainant's group) working with you? Yes ________ No ____________
Who are they?

9. Do you know of any (insert complainant's group) in middle managmenet or executive positions?
Yes ______________ No ______________
Name _________________________ Position _______________

10. Are you familiar with any recruiting sources which could refer applicants from the covered groups? Yes __________ No __________________
If so, which? ____
____
____

11. Do you know of any religious or ethnic media which the company could use in seeking applicants for employment? Yes ______________ No _________________
If so, which? ____
____

12. Do you know of any underutilization of ethnic groups in your department? Yes__________ No
________ If so, which? _____________________________________
____

13. Do you know of anyone who has filed a grievance or complaint based on religious or national origin reasons? Yes ___________ No ____________ If so, who, when, what was the result? _____________

____

14. Do you mind stating your religion? Yes _____ No ____________ If not, what is it? ______________

15. Would you be willing to testify in court regarding the information you have given in this interview? Yes ____________ No ________________

16. Remarks: ____

____

____

____

Inteviewer: __________________________ Date _______________

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CHAPTER 7

IDENTIFICATION AND RESOLUTION OF AFFECTED CLASS PROBLEMS

7-10 Purpose. The purpose of this chapter is to provide the EOS with a suggested analytical framework for identifying and substantiating systemic discrimination, and suggested methods for identifying affected class(es) and fashioning remedies. For a discussion of affected class relief involving one individual, see, e.g. chapter 6.

7-10.1 Techniques. The tools for initiating the systemic discrimination investigation normally should be those used in the desk audit and onsite review. This chapter provides the suggested analytical framework for focusing the review on systemic discrimination issues and affected classes. The investigation of these issues may lead the EOS to a finding of affected class, in which case a remedy is sought. However, the EOS may determine that further guidance is necessary. The EOS should then request the assistance of the Branch of Special Analyses, NO.

7-10.2 Responsibilities. The EOS is responsible for identifying systemic discrimination; identifying the class affected by the discrimination; fashioning appropriate remedies; and attempting to conciliate with the contractor.

7-20 Procedures. This section provides the normal analytical framework for the investigation of systemic discrimination and the identification of affected class(es) as part of the compliance review process. Section 7-40 provides suggested specific steps to follow when conducting this analysis.

7-20.1 The following sub-parts provide the EOS with an analytical framework for the conduct of the affected class analysis. The basic standards of this analysis are identified. These are a sequence of actions and events which are designated to aid the EOS in this analysis. However, the sequence is less important than the reliability and accuracy of the conclusions. The reliability and accuracy of the conclusion will depend substantially on the experience the EOS brings to the analysis. With this experience, the EOS can draw conclusions regarding the significance of statistical and anecdotal evidence, and focus the attention of the review on substantial problem areas. The EOS should not hesitate to consult with all available resources. These resources include senior EOSs within the AO, supervisory personnel including the AOD, RO staff, and NO staff, including the Branch of Special Analyses, and the Solicitor's Office.

7-20.2 Desk Audit. The first level of analysis, an initial screening for indications of systemic discrimination, should usually occur at the desk audit stage. This screening should include division of the contractor's work force into appropriate job areas. Each job area should be examined using the kinds of analyses discussed in section 2-130.

7-20.3 Hypotheses. Based on the initial screening, hypotheses as to probable problem areas should be developed. For example, do areas of substantial concentrations, underrepresentation or skewed distributions need further analysis? From knowledge of industry and initial analysis, EOSs should make preliminary decisions on areas in which to concentrate further efforts. To the extent possible, the hypotheses should identify the personnel actions which have apparently produced the problems on which actions the EOS is focusing. NOTE: Because often only limited data is available for desk audit purposes the EOS may not be able to develop complete hypotheses, or hypotheses relating to all relevant aspects of the workplace environment, during the desk audit. Any such areas should be reserved for futher development onsite.

7-20.4 Plan data collection. The EOS should plan further needed analyses to confirm or reject the hypotheses and determine required data. He/she should notify the contractor of any additional information needed for onsite analysis.

7-20.5 Onsite. During the onsite review, the EOS should gather and analyze data to test the hypotheses formed previously. See Appendix 7-A for a description of suggested techniques to be used to review the contractor's affirmative action policies, practices and procedures under 503/402. Any information indicating other problem areas should also be verified. Methods of verification should include:

7-20.5a Interviews with contractor staff and management personnel.

7-20.5b Interviews with employees.

7-20.5c Checks of personnel and salary records.

7-20.5d Review of other appropriate contractor files.

7-20.5e Contact with the community.

7-20.5f Assessing the sufficiency of the initial employer response to any unresolved findings.

7-20.6 Test of hypotheses. The EOS should use the data gathered to test the accuracy of hypotheses or contractor responses. He/she can use a variety of tests to verify the existence of disparate treatment or adverse impact. The EOS must be able to assess the sufficiency of the contractor's explanations.

7-20.7 Findings. At this stage of the investigation, the EOS should generally be prepared to reach a conclusion concerning the hypotheses of systemic discrimination. This conclusion may be delayed awaiting the completion of the advanced statistical analysis. If there is a finding of systemic discrimination/affected class, define the apparent class, outline appropriate remedies, and initiate conciliation to obtain remedies.

7-20.8 Notification of findings. When an affected class finding is made, the contractor should be informed in writing as is specified in chapter 3. This letter shall include a general description of the remedies required to resolve affected class(es).

7-20.9 Remedies. In preparation for conciliation, the EOS should fashion proposed remedies to resolve affected class issues. The remedies should eliminate the systemic discrimination and seek to make the victims of that discrimination whole by achieving their rightful place in the contractor's workforce within a reasonable period of time.

7-20.10 Conciliation. Conciliation should be according to the guidance provided in chapter 8.

7-30 Systemic discrimination. This section provides suggested methods for identifying affected classes and examples of employment practices or policies which are often discriminatory and, therefore, tend to create affected class(es). The underlying method for identifying systemic discrimination is normally a comparison of the effects of the contractor's employment policies or practices on various groups, with their effects on other groups. When the comparison is disadvantageous to a group(s) which can be characterized by their race, color, sex, religion, national origin, handicap or covered veteran status, then the employment policies or practices may well be discriminatory and should be investigated. Statistical analyses are the primary but not the exclusive tool for these comparisons. The contractor is responsible for the effects of its employment policies or practices regardless of specific intent. Systemic discrimination often results in: 1) adverse impact on various groups or 2) disparate treatment of various groups. However, an affected class of employees can also exist without a finding of current disparate treatment or adverse impact. The remainder of this section reviews the major ways in which systemic discrimination manifests itself.

7-30.1 Substantial underrepresentation. A substantial difference between a group's availability for a job (or job area) and the group's representation in the job (or job area) provides a strong indication that discrimination may have occurred in the recruitment and/or selection practices for the job (or job area). The concept "selection practices" includes, for example, employment decisions relating to hiring, promotion, assignment and transfer. When neither the recruitment or selection practices for a job turn out to be the cause of the underrepresentation, the possibility that demotion and discharge practices are the cause should also be explored. When significant underrepresentation is identified, the contractor has the obligation to demonstrate that it did not result from discrimination.

7-30.2 Adverse impact. A rate of selection of hiring, promotion, transfer, training, or other employment decisions of a particular race, ethnic or sex group which is less than 80% of the rate of the race, ethnic or sex group with the highest rate of selection. It creates an obligation on the part of contractor to demonstrate that its selection practices and procedures conform to the Uniform Guidelines on Employee Selection Procedures. Minorities or women may be excluded from hire, transfer or promotional opportunities by tests, qualification requirements (e.g., high school diploma), supervisory ratings, or other employee selection procedures that have an adverse impact and are not validated in accordance with 41 CFR Part 60-3. Refer to the Questions and Answers on Uniform Guidelines on Employee Selection Procedures. Minorities or women denied hire, transfer or promotion opportunities due to the unvalidated procedure may constitute an affected class.

7-30.3 Concentrations. Minorities or women are a substantially higher percentage of employees in specific job titles, lines of progression, seniority units, departments, or wage ranges than would be expected given their percentage of the relevant internal workforce sector. The following are examples of some of the situations in which affected class(es) may be found:

7-30.3a Less desirable job area (e.g., job, wage range, line of progression, seniority unit or department). A job area might be less desirable because of, among others, any of the following:

7-30.3a1 Lower wage rate, or range, or lower incentive rate.

7-30.3a2 Less opportunity for skill acquisition and/or advancement.

7-30.3a3 Less job security (e.g., greater likelihood of layoff).

7-30.3a4 Less desirable work schedule (weekends, nights, shift work, etc.).

7-30.3a5 Poorer working conditions (for example, hotter, dirtier, or more dangerous).

7-30.4 Wage discrimination. Assignment of wage rates based on race or sex, rather than the contractor's stated (or job-related) criteria. For example, although a contractor says it awards higher paying jobs based on education, blacks with a high educational level earn less than similarly educated whites.

7-30.5 Policies which perpetuate past discrimination. An affected class of employees can also exist without a finding of current underrepresentation, adverse impact, or concentration. It is not sufficient for a contractor to merely stop discriminating. It must correct the effects of that discrimination. Otherwise neutral employment procedures can perpetuate prior discrimination against an affected class of covered employees, which was created by systemic discrimination which has since ceased; an appropriate remedy must then be obtained, unless the contractor can show that the policy which perpetuates past discrimination is required by business necessity. Such a policy or procedure may often be one that prevents or inhibits transfer or promotion. Such policies or procedures include, but are not limited to:

7-30.5a Collective bargaining agreements with seniority provisions that penalize movement between seniority units. Such penalties include, but are not limited to: loss of competitive seniority for promotion, retention in reductions in force or layoff, hours of work, or other terms and conditions of employment. This occurs with departmental, LOP, or job seniority systems.

An example of this situation is:

> A contractor has two lines of progression (LOPs), LOP-A (lower paying) and LOP-B (higher paying). Until the effective date of Executive Order 11375 (October 14, 1968), the contractor hired only women into LOP-A, and only men into LOP-B. After October 14, 1968, the contractor hired men and women into both LOPs.

The contractor's collective bargaining agreement prescribes a system of LOP seniority. To transfer from one LOP to another, an employee must transfer to the entry level job at the lowest rate of pay, and lose all previously accumulated seniority. Promotions within the new LOP are governed by seniority in that LOP.

A woman with 16 years of seniority in LOP-A and holding the highest paying job in that LOP, $4 an hour, wants to transfer to LOP-B. The woman would be required to start in the LOP's entry-level job paying $2.50 an hour, even though the top job in LOP-B pays $7.25 per hour. Her competitive seniority in LOP-B would accrue only from the date of transfer. Thus, even though she had 16 years of company seniority, she would be "out bid" for promotion by a person with only 1 year of company seniority who had been hired directly into LOP-B.

The collective bargaining agreement thus perpetuates the effects of the pre-October 14, 1968, discriminatory assignments by "locking" all women hired before that date into lower-paying LOP-A.

7-30.5a1 Seniority systems that perpetuate the effects of past discrimination. Where an employer has a collective bargaining agreement whose seniority provisions perpetuate the effects of past discrimination (Refer to, e.g., section 7-30.1), an appropriate affected class remedy should be sought. Negotiation of a remedy which provides for changes, or exceptions to the collective bargaining agreement, should involve the union. Since these negotiations will involve legal principles and precedents, the EOS should consult with the Regional Solicitor before proceeding. NOTE: Even if the contractor has already made changes in its seniority system, additional relief (such as backpay, rate retention, job skipping, etc.) for members of affected classes may be appropriate.

7-30.5b Disparate treatment. The principles of disparate or unequal treatment must be distinguished from the concept of adverse impact. Those employees or applicants who have been denied equal treatment, because of prior discriminatory practices or policies, must at least be afforded the same opportunities as had existed for other employees or applicants during the period of discrimination. Thus, the persons who were in the class of persons discriminated against during the period the contractor followed the discriminatory practices should be allowed the opportunity to qualify under less stringent selection procedures previously followed, unless the user demonstrates that the increased standards are required by business necessity. An example of such treatment may include the situations where blacks or Hispanics who were excluded from certain jobs are now required to take a test in order to obtain the jobs and whites or Anglos did not have to take it.

7-30.5c A policy or procedure that (even though there may not be a collective bargaining agreement in effect) similarly "locks" employees into a less desirable job area. Examples are "no transfer" rules and informal lines of progression.

7-30.5d Failure to inform employees who have been discriminatorily assigned to a particular job area of transfer or promotion opportunities in other job areas.

7-30.5e Failure to dispel historic identification of certain jobs or units with one race, color, religion, national origin, or sex. Where job areas in a contractor's work force are identified solely with one group, this alone may inhibit members of other groups from transferring.

7-30.6 Policies which discriminate on their face An explicit policy of limiting opportunities for hire, transfer, or promotion, etc., because of national origin, sex, religion, handicap or covered veterans status is prohibited discrimination unless the contractor demonstrates that the limited BFOQ exception applies.

7-40 Procedures and standards for identifying systemic discrimination and the resultant affected class(es). This section sets out procedures for identifying contractor employment actions which may result in systemic discrimination and which may create affected class(es). These procedures should normally be followed within the analytical framework provided in section 7-20.

7-40.1 General. The following generalizations may prove useful in determining systemic discrimination.

7-40.1a Work force categories. Often, a contractor's work force is functionally divided into three broad categories, which we will call, for the purposes of this section, blue collar, white collar and clerical.

7-40.1a1 Blue collar. The blue collar portion (which is often referred to as production and maintenance or P&M) of a contractor's work force is often characterized by formal personnel practices which determine placement and movement within the group. These practices are often governed by collective bargaining agreements or other formal systems. Seniority, (which may be e.g., "job," line of progression (or unit or group), departmental, or date of hire seniority), is often the overriding consideration in determining conditions and benefits of employment. In addition, entry level blue collar jobs often require no more than minimal education, and prior experience. Hiring generally is at entry or at a relatively low level of pay, responsibility and skill.

7-40.1a2 White collar. Movement and placement within a contractor's white collar work force is rarely governed by formal contractual procedures. Movement within the white collar work force is not often governed by seniority or entry department. Generally, salary, benefits and other compensation are indicative of position in the work force and are not dependent upon seniority. In addition, some specified level of education and/or experience may be required for employment in the white collar work force. Furthermore, hiring may occur at any level.

7-40.1a3 Clerical. The clerical work force may have characteristics of both the white and blue collar work force. Placement and movement within the clerical work force may or may not be governed by formal contractual procedures (often lower level clerical jobs are represented by a union, and higher level jobs (e.g. secretaries to key executives) are not union represented). Salary, benefits, and other compensation may be indicative of position, or may be governed by seniority. In addition, these positions often have minimal education and prior experience requirements at the entry level. Hiring is often at entry or at a relatively low level of pay, responsibility and skill.

7-40.1a4 Movement. Movement between these three categories is usually minimal when compared to the movement within. That movement which does take place between these categories should be examined carefully.

7-40.2 Analytical decisions. Decisions on units for, and types of, analysis; conclusions and their significance; and remedies should be based upon the EOS's judgment developed from knowledge of the industry and contractor's employment practices, as well as prior OFCCP experience with the contractor. Following are suggested techniques which have been successfully used for identifying systemic discrimination and the existence of affected class(es).

7-40.3 Step 1. Determine appropriate units of analysis. In determining the appropriate units of analysis (e.g. job areas), the critical element is the nature of the work force (i.e. white collar, blue collar, or clerical) and the contractor's practices within those categories.

7-40.3a A job area is a job or group of jobs, similar in nature, which will be treated as a single unit for purposes of analysis. It is usually based upon the contractor's organizational structure (e.g. all jobs in a particular LOP or department) or on wage rates (e.g. all jobs paying between $2.50 and $2.65 per hour) or on a combination of these two factors (e.g. all jobs in a particular LOP paying $2.50 and $2.65 per hour). The job area should usually be small enough so as not to mask significant differences in the status of minorities and/or women from others in the workforce, but large enough to provide a basis for statistical analysis.

7-40.3b If discrimination exists, minorities or women may be concentrated in several job titles forming a department, line of progression, seniority unit, or wage range.

7-40.3b1 Collective bargaining agreements or similar procedures should be analyzed to identify the type of seniority system (for example, company, plant, department, LOP, job title) and to define seniority units and lines of progression. If the seniority system has been changed, both the old and the new systems should be examined. NOTE: Different measures of seniority may be used for different purposes, e.g. LOP for promotion and plant layoff. Where there are collective bargaining agreements, seniority units will often be job areas. Where there are no collective bargaining agreements, "promotion from within" and experience requirements may create de facto "lines of progression" or "seniority units" (these are often apparent in promotion data). EOS should perform this analysis carefully, because failure to identify lines of progression and seniority units will result in definitions of job areas that are useless in identifying focus job areas. For example, departments are frequently separated into two or more lines of progression and concentrations of minorities or women could be invisible on a department-wide basis, but readily apparent when the lines of progression are analyzed separately.

7-40.3b2 For many white collar establishments or white collar sectors, organizational units usually are not appropriate job areas. For these establishments, concentration or exclusion of women or minorities often is more apparent by income levels. For example, the following wage ranges might be appropriate in white collar job areas: $0 to $5,000; $5,001 to $7500; $7501 to $10,000; $10,001 to $12,500; $12,501 to $15,000; $15,001 to $17,500; $17,501 to $20,000; $20,001 to $25,000; $25,001 to $30,000; $30,001 to $40,000, and so on. Smaller ranges may be appropriate, particularly when significant numbers of employees are in relatively low salary rates (e.g., less than $12,000 or $15,000). Where bonuses, incentives, overtime or commissions have substantive effect on income, employees should be grouped by actual (W-2) earnings rather than by wage or salary rates.

7-40.4 Step 2, Analyses. Based upon the information requested from the contractor for the desk audit, the EOS should be able to perform several basic types of analyses:

7-40.4a Analysis of underrepresentation. The EOS should identify all instances where availability for a job area is substantially greater than current representation. When doing this, the contractor's availability estimates must be carefully evaluated and modified as appropriate. Refer to 2-160.

7-40.4a1 Where job areas are relatively small, related job areas may be grouped together to permit meaningful analysis. It is particularly appropriate to combine job areas within the same work sector for which estimated availability is substantially the same -- e.g., all entry-level, unskilled blue collar jobs; or all entry-level professional positions which validly require a college degree in a technical subject.

7-40.4a2 Particular attention should be paid to job areas involving especially good opportunities for advancement -- e.g., first-level plant supervision, skilled trades apprenticeship and helper positions, and clerical and technical positions which offer opportunities for meaningful skills development. Determine the extent to which the contractor has traditionally filled job areas of this type internally, and, where minorities and women are well-represented in the relevant internal pools, weight the availability estimates accordingly.

7-40.4b Adverse impact analysis. IRA, the impact ratio or the four fifths (4/5) rule, should be used for all job areas where there is adequate information on selection rates. Refer to chapter 2 for a discussion on its use. The procedures used to identify problem areas during the desk audit may indicate adverse impact in selection for hire, promotion and/or termination, etc. While adverse impact in any one year is not necessarily conclusive (e.g., where small numbers are involved; refer to 2-230.7b), the evidence of adverse impact, especially supported by substantial underrepresentation, increases the probability that systemic discrimination is or was present.

7-40.4b1 A primary tool which the EOS should use for focusing onsite investigation is the impact ratio (or 4/5th rule) to determine adverse impact, in selection procedures. When there is a finding of adverse impact, the EOS should determine whether the contractor used any mechanism or criteria to screen applicants for consideration. The EOS should investigate physical and mental job specifications which may screen out minorities, women, handicapped individuals or covered veterans, which have not been validated or are not justified by business necessity. Refer to chapters 2 and 3 for further guidance.

7-40.4b2 Terminated Employees. In determining the probability of systemic discrimination in termination decisions, the EOS should look for adverse impact and disparate treatment. The EOS should be particularly alert when investigating terminations for possible harassment or other acts by the contractor or other employees which are related to the employees' race, color, religion, sex, national origin, handicap or covered veterans status and which may have caused their resignations or terminations. Additionally, the EOS should be sensitive to the possibility of retailiation against employees for exercising rights guaranteed by civil rights laws.

7-40.4c Identification of concentrations. The EOS should identify situations where a group has substantially higher representation in less desirable jobs, LOPs, departments, etc. than in other jobs, LOPs, departments, etc., involving comparable skills. One method of analyzing the significance of such concentrations is JAAR. JAAR, the job area acceptance range, may be used to determine areas of concentration or underrepresentation in blue collar and clerical work forces. JAAR should be used with caution when the percentages of the various groups are either a very small portion of, or over half of, the work force. Refer to chapter 2 for a discussion on the use of JAAR.

7-40.4d Cohort analysis. The preliminary cohort analysis can reveal problems in the white collar, blue collar and clerical categories. The analysis is a comparison of the treatment by the contractor of employees with similar characteristics and similar initial hire dates. Each similar group of employees is considered a cohort. At the desk audit stage, the EOS should, if possible, make a comparison of cohort salaries.

7-40.4e Other analytical methods. When the types of analysis reviewed above are inadequate, or can readily be supplemented with available information, the following analytical methods may, for example, be considered:

7-40.4e1 Salary distribution. A salary distribution analysis may be done separately for the white collar, blue collar, and clerical segments of the contractor's work force. In determining whether the analysis will be done based upon actual rates or ranges, the EOS should consider the effect on salary distribution of overlapping wage ranges, particularly between clerical and white collar. This analysis compares the number and percentage of minorities and women in each salary group to concentrations and relative position within the work force. Where possible, this analysis should be broken out by seniority or length of service bands.

7-40.4e2 Frequency distribution. The frequency distribution is an examination of the placement of minorities and women which may include the entire contractor work force, or address minority or female representation across two or more levels of the workforce. It should be applied in situations where there is believed to be substantial movement from the lower jobs to the higher jobs within the universe covered by the analysis.

7-40.5 Step 3, Formulation of hypotheses and identification of needed additional data. The EOS should develop hypotheses of systemic discrimination in areas of employment activity based upon the suggested analyses in section 7-40.4 and analyses done to determine acceptablity of the contractor's AAP at the desk audit. In general, the hypotheses should be based upon those analyses, either separately or in combination, which show patterns of underrepresentation, adverse impact, concentration, or disparate treatment.

7-40.5a For example, if the JAAR indicates concentrations in job groups with functions similar to others in which the JAAR has shown an underrepresentation, then the EOS might hypothesize that there is an assignment and/or a promotion problem.

7-40.5b If a cohort analysis or a frequency distribution shows a severe concentration of women at the lower end of the salary scale, whereas men are distributed throughout, then the EOS might hypothesize that there are assignment, promotion and/or training problems.

7-40.5c If one or more of these analyses show problems, then there is a strong indication of systemic discrimination.

7-40.5d The EOS should use knowledge of industry and contractor employment history to test the significance of hypotheses. If the EOS is not sufficiently familiar with the industry, he/she should consult with someone with greater familiarity (e.g. other EOSs, AOD, community groups, etc.).

7-40.5e The EOS should determine the additional data necessary to confirm significant hypotheses, and should request the contractor to have these data available for analysis.

7-40.6 Step 4, Test of hypothesis. For an affected class to exist, minorities or women must suffer some injury as a result of discrimination. This injury may occur as a result of former overt discrimination which has ceased, but the contractor has failed to correct the continuing effect of that discrimination. The most common injury is loss of income. In other cases, while income levels are the same as other job areas, areas of concentration may be less desirable places to work because, e.g., they provide less opportunity for promotion or acquisition of skills, they have hotter, dirtier, or more dangerous working conditions, they are more prone to temporary or permanent layoff, etc. The following procedures should be followed to test hypotheses:

7-40.6a Loss of income.

7-40.6a1 The EOS should compare the average and median wage or salary for minorities and women respectively in areas of concentration with the average and median wage or salary for nonminorities and/or men in areas of underrepresentation. Where appropriate, the EOS should break out separately males and females within minority groups. In addition, the EOS may, for example, compare minorities with white males.

7-40.6a2 The EOS should be aware that total hours worked over a specified time period is sometimes relevant. Although the median rate of pay in a job area is lower than other job areas, there may be more opportunity for overtime. Where this issue arises, the EOS should determine the numbers of hours actually worked. Special attention should also be paid to the contractor's incentive system(s), if any, and their effect on earnings. In white collar areas, the EOS should ascertain how wages are assigned. For example, do women, although proportionally represented in the company's white collar "grade" system on the same basis as men, tend to earn less in each grade?

7-40.6a3 The EOS should be wary of claims of "higher earnings potential" in areas of concentration. "Earnings potential," the peak labor grade in a department's organization chart (or in wage tables), and "realized earnings," the actual wages of employees in the department, can be quite different. For example, the top wage grade in a predominantly nonminority department may be 16, while the top wage grade in a predominantly minority department is 18. However, in fact, no persons in the predominantly minority department may have a wage higher than 10, while the average wage grade in the nonminority department may be 14. Another consideration is the number of positions available at each grade level (e.g., there is one 18, one 16, and 20 14's in the minority department, and there are 20 16's and 10 14's in the white department.

7-40.6b Less opportunity for skill acquisition or advancement. Areas of concentration may afford wages comparable to those in areas of underrepresentation. They may, however, afford substantially less opportunity for skill acquisition or advancement. The EOS should analyze data on promotions and participation in apprenticeship and other training programs to determine the relevant opportunities afforded to employees in job areas. Job areas from which supervisors are selected should be identified. In white collar areas, the EOS should determine whether assignment to certain departments or jobs appears to have a high relationship with advancement. The contractor's standards and methods of recruiting for management training programs should also be examined.

7-40.6c Less job security. Certain jobs, LOPs or departments may be more prone to layoff or reduction in force than others. For example, if the company has a steady demand for window glass, but demand for bottles is sporadic, layoff may be more probable in the bottle department. NOTE: Seniority practices which permit "bumping" from one department or LOP to another in the event of a reduction in force may affect the security of a particular job and thus should also be analyzed.

7-40.6d Less desirable work schedule. Certain units may regularly work Monday through Friday, 9:00 to 5:00, while others work different days and/or hours (e.g., rotating shifts, weekends, steady night shift, etc.). Regular weekday, daytime work, even if it pays less, may be most desirable to the majority of employees.

7-40.6e Poorer working conditions. In many cases, certain jobs may be hotter, dirtier, or more dangerous than others. This factor will often be in combination with lower income or less opportunity for skill acquisition or advancement. Sometimes the jobs with poorer working conditions may pay the same as, or more than jobs with better working conditions. The EOS should investigate further if minorities or women employees indicate that they desire but cannot obtain (as opposed to white or male employees' ability to obtain), lower paying but less difficult or more comfortable jobs, e.g., older employees in a steel mill may wish to take a slight cut in pay to work in air conditioned surroundings).

7-40.7 Step 5. Examine possible explanations for the evidence of systemic discrimination. Having determined there is reason to suspect the existence of systemic discrimination, the EOS must explore the possibility that there exists a nondiscriminatory explanation or justification for the underrepresentation, adverse impact, concentration, policy which perpetuates past discrimination, or policy which is discriminatory on its face. Remember that the contractor must be given an opportunity to rebut, explain, or justify apparent discrimination. The EOS must, however, take the possible effects of present and past discrimination into account when analyzing these explanations.

Eliminate seniority or job related qualifications as explanations for concentrations. At this stage, the EOS should have demonstrated that minorities or women are disproportionately concentrated in less desirable job areas and underrepresented in more desirable job areas. In showing that the areas of concentration are less desirable, the EOS should normally also have demonstrated that the minorities or women are experiencing economic loss or other injury. The next task is to determine if concentration and underrepresentation can be explained by seniority or job-related qualifications. However, the EOS must be extremely careful to take present and past disparate treatment and adverse impact into account when analyzing these factors.

7-40.7a Blue collar work forces. Employees are often hired into lines of progression, advancing on the basis of length of service (job, department, or company seniority) and qualifications acquired on the job. Where it is found that the seniority system perpetuates past discrimination, it is necessary to demonstrate that minorities and women, respectively, in areas of their concentration have company seniority comparable to that of nonminorities and men, respectively, in areas of greater desirability, and had comparable job related qualifications when hired.

7-40.7a1 Elimination of seniority as a factor. The EOS should:

7-40.7a1a Obtain, for example, the following information about employees in focus job areas: name, sex, minority group identification, current job title, current rate of pay, job title of initial placement (include seniority unit and pay rate), original date of hire, and any other relevant data considered in promotion, transfer, or layoff.

7-40.7a1b Determine the average and/or median company seniority of minorities and women in areas of their concentration and of nonminorities and men in areas or the minorities and women's underrepresentation. If the seniority levels for the compared groups are not widely disparate, seniority is probably not the determining factor in the lower average wage of the minorities or women. An alternative approach, particularly if the preceeding analysis shows widely disparate seniority levels, would consist of comparing minorities and women to nonminorities and men with comparable seniority to see if the previously identified differences continue to exist even when the effect of seniority is washed out. This can be done, e.g., by making comparisons of employees with seniority bands, such as 0-4 years, 4-8 years, 8-12 years, etc.

7-40.7a1c It is sometimes more accurate to base comparisons on the modal (most frequent) seniority dates of these two groups especially when the company has a history of cyclical hiring and layoff periods.

7-40.7a2 Elimination of qualifications at time of hire as a factor. In LOP, job, or departmental seniority systems, the employees' initial assignment often largely determine their present work units. Therefore, the EOS should show if certain qualifications were required, that the qualifications of minorities and women in areas of their concentrations and nonminorities and men in more desirable areas were comparable when they were hired. If the potential affected class members had qualifications comparable to persons hired into areas of greater opportunity, qualifications probably were not the basis for assigning new hires to job areas.

7-40.7b White collar work forces. Unlike the blue_collar sector, the contractor's qualifications for assignment in white collar jobs are often more substantial. That is, white collar jobs often require qualifications beyond the "ability to be trained." To substantiate the initial hypothesis of systemic discrimination, the EOS should compare employee records of these groups with nonminorities and/or men with similar hire dates and similar initial educational qualifications to determine where they are now, and whether additional training was provided or obtained.

7-40.7c Contractor explanations. The following are explanations sometimes provided by the contractor as justifications for the existence of the problems the EOS has identified. Such explanations may consist of a showing that the data used is in error or incomplete, that factors relevant to proper evaluation of job qualifications or seniority have not been considered, that selection procedures or standards which have an adverse impact have been properly validated; that the policies which perpetuate past discrimination are essential to the safe and efficient operation of the contractor's business; or that a BFOQ justifies the facially discriminatory policy. These may in some cases be proper explanations. In other cases, they may not be relevant or material to the EOS's findings. The EOS should be particularly careful in evaluating the following explanations:

7-40.7c1 On-the-job training or experience obtained after hire. This may have been a result of the original assignment. It has no bearing on whether the original assignment was discriminatory.

7-40.7c2 Performance appraisals or ratings. The hypothesis being tested is that the contractor's subjective decisions on assignment and advancement are discriminatory; use of other subjective decisions of the contractor, such as ratings, is therefore suspect.

7-40.7c3 Length and continuity of service are often used to explain disparities in positions or salary for minorities and women. This is particularly true of clerical and white collar situations. To evaluate the impact on covered group members, the EOS should normally use the comparison test for seniority, provided in section 7-40.7a1.

7-40.8 Step 6, Verification through record sample.

7-40.8a Any conclusion of systemic discrimination and the existence of an affected class should normally be reached, in part, on the basis of a sampling of employee records, e.g. personnel folders, work histories and salary histories.

7-40.8b The numbers in the sample and the job areas from which they are drawn will vary from issue to issue. The sample must include a representative number of class and non-class members. Additionally, the EOS can use the sample records to gather anecdotal information and identify persons who should be interviewed.

7-40.8c Identifying systemic discrimination for covered veterans and handicapped individuals requires particular attention in the analysis of contractors' compliance with proper consideration of qualifications (41 CRF 60-741.6(b) and 60-250.6(b)), and physical and mental qualifications (41 CFR 60-741.6(c) and 60-250.6(c)).

7-40.8c1 Record examination. The EOS should randomly audit personnel records to determine if applicants were rejected solely for medical or mental reasons that were not established to be job related. Most prevalent disqualifying conditions are abnormal back x-rays, high blood pressure, history of heart disease, seizures or history of mental illness.

7-40.8c2 Select a group of jobs that were filled in a specific time period, and examine the applications of those selected for physical and mental conditions. Compare applicants rejected for the positions with those selected and determine if the records disclose that it was for physical or mental reasons not related to the job.

7-40.8c3 Where the foregoing examination discloses violations of the regulations for those randomly sampled, the EOS should analyze the findings to determine how many individuals may be in the affected class and identify them by name, job applied for, application date, recorded reason for rejection, and physical or mental qualifications.

7-40.8c4 The EOS should follow the standard procedures in section 7-50 for obtaining appropriate remedies, after the veterans or handicapped individuals affected class has been identified.

7-40.9 Step 7, Formulation of conclusions. The EOS should formulate conclusions about the nature of the systemic discrimination that appears to have created an affected class. To form a conclusion regarding each area which has been examined, the EOS should be able to answer, with sufficient documentation, the following questions:

7-40.9a Does the systemic discrimination involve adverse impact and/or disparate treatment, concentrations, otherwise neutral practices which perpetuate the effect of past discrimination, e.g. limitations of seniority for transfer, etc.

7-40.9b Which group of employees and/or applicants has been discriminated against e.g., blacks, women, Hispanics, handicapped individuals, covered veterans, etc.

7-40.9c Which jobs have been affected by the systemic discrimination?

7-40.9d What employment policies or practices caused the systemic discrimination, e.g., recruitment, hiring, job assignments, promotion, unvalidated employee selection procedures, maternity leave policies, performance evaluations, policies, which perpetuate the effects of past discrimination, termination practices, etc.?

7-40.9e Has the cause of the systemic discrimination been eliminated; and if so, when?

7-40.10 Step 8, Identify membership in the affected class. At this point, the EOS, as a minimum, should define the apparent membership in the affected class(es) created by the systemic discrimination identified. The membership should be defined by job area, employment decision and/or criteria, and the group of people affected. Producing a list of names is not necessary at this stage. In defining the membership in the affected class(es), the EOS should normally consider at least the following:

7-40-10a Incumbent employees, including persons who have transferred out of the area of concentration.

7-40.10b Applicants (including those rejected after applying for employment, and those persons who would have applied but for the contractor's discriminatory practices).

7-40.10c Former employees (either due to discrimination suffered while employed or as a result of discriminatory discharge).

7-40.10d Retired employees (either due to discrimination suffered while employed, or lower pensions and other benefits that are a continuing effect of the discrimination).

7-40.11 Step 9, Anecdotal and documentary evidence. The purpose of this step is to gather information about specific instances which demonstrate discrimination or its effect upon employees and applicants. Developing the strongest possible case will increase the contractor's willingness to negotiate affected class remedies. Anecdotal and documentary information are evidence to achieve this end. Most of this information should normally have already been gathered during the course of the desk audit, and onsite review and the previously described affected class analytical steps. The following items list various sources which might provide this information.

7-40.11a Anecdotal evidence. The statistical presentation of systemic discrimination becomes a vivid reality through the personal experiences of those affected. These experiences, as recounted to the EOS, are anecdotal evidence. The most obvious sources of such evidence are affected class members themselves. Other potential sources include community leaders and residents; contractor officials; and files maintained by OFCCP, the Wage and Hour Division, the EEOC, and state and local fair employment agencies. The EOS should attempt to substantiate anecdotal evidence either through documentation or through corroborating witnesses.

7-40.11a1 Affected class members. The EOS should interview a representative sample of potential affected class members for each area of potential systemic discrimination. The size of the sample will depend on the strength of the statistical evidence and the degree to which the discrimination is overt and continuing. For the most part, the EOS should make interview selections based on records reviewed, recommendations from other sources and the onsite inspection. The EOS should pursue a line of questioning in the interview designed to elicit facts about the alleged discriminatory practices, as well as general employment history. (For guidance on interview techniques, refer to chapter 6 on complaint investigations.)

7-40.11a2 Community leaders and residents. Leaders of women's groups, and minority organizations and other community residents often have useful information about a contractor's past and present personnel practices. The purpose of these interviews is to obtain the community view of the contractor's employment practices and to identify additional individuals who may have suffered discrimination. The EOS should document the results of such interviews, specifying the date of interview and the name, address, and phone number of the person interviewed.

7-40.11a3 Contractor officials. Contractor officials, especially those with personnel or labor relations responsibilities, are important sources of information on affected classes. Information that can be obtained from such sources includes: The contractor's explanation for areas of concentration and underrepresentation, and the personnel practices that created and maintain them; the establishment's collective bargaining history; the establishment's personnel procedures, and any changes since the first affected class member was hired; and when the first women or minorities were hired or placed in non-traditional areas, and why none were hired or assigned to such areas prior to those dates.

7-40.11a4 Files of OFCCP, Wage and Hour Division, EEOC, and state and local fair employment agencies. Files of fair employment agencies (including files for complaints for which no cause was found) are often rich sources of anecdotal evidence. Information that can be obtained from such files includes: Descriptions of the personnel policies and procedures of the contractor, and their historical background and evolution; specifics of Equal Pay Act violations found by the Wage and Hour Division; and probable cause findings by the EEOC and State and local fair employment agencies.

7-40.11b Documentary evidence: Findings based upon statistical analysis are strengthened by the inclusion of the contractor's documents which demonstrate the systemic discrimination. Collective bargaining agreements, personnel files, job descriptions, personnel policies, application forms, job announcements, and recruitment literature may provide documentary evidence.

7-40.11b1 Affected classes based on handicap. Obtaining job descriptions, worker specifications, and personnel policies which relate to physical and mental qualifications for a job is essential to a finding of systemic discrimination against handicapped employees and/or applicants.

7-50 Affected class remedies. This section provides guidance and examples to aid the EOS in the formulation of affected class remedies. The examples provided are not meant to be limiting or all encompassing. Based upon e.g., the suggested techniques covered in sections 70-40.3 through 70-40.12, the EOS has made findings of systemic discrimination(s) and the resultant affected class(es). In addition, the EOS has defined membership in the affected class(es). The parameters of the remedy are determined by the discrimination to be eliminated, and the extent to which affected class members have fallen behind non-class employees and are suffering economic or other loss.

7-50.1 Systemic discrimination. Eliminate the cause of the systemic discrimination. The policies or practices which caused the discrimination must be changed or eliminated and provisions for follow-up established.

7-50.2 Economic loss. The EOS should estimate the amount of the economic loss suffered by that portion of the affected class(es) which, but for the discrimination, and/or failure to remedy the effects of past discrimination, should have been afforded opportunities offering greater economic advantage.

7-50.3 Rightful place. The EOS should determine the extent to which affected class members have not been afforded the same opportunities as comparable non-class employees and have fallen behind those employees. He/she should approximate where these class members would have been but for the systemic discrimination. The EOS should fashion a remedy to achieve as quickly as is reasonably possible the rightful place of these class members.

7-50.3a Affected-class settlements are normally based on the "rightful place" principle. The "rightful place" principle provides that non-affected class members are not bumped out of their current positions, but that affected class members are afforded opportunities as quickly as possible to move forward and achieve the positions they would have held but for discrimination and/or failure to remedy it. (NOTE: The EOS should generally not identify specific future positions associated with specific class members.)

7-50.3b Determining how the "rightful place" principle applies to a particular contractor's business operation is the basis for an appropriate affected class remedy. Where present personnel practices perpetuate the effects of past discrimination, they must be altered unless they can be shown to meet the test of business necessity. Where affected class members qualify based on company seniority or other applicable entry requirements, the only normally acceptable basis for denying them positions from which they were excluded would be that they are not capable, and cannot reasonably be made capable, of performing job duties in a satisfactory manner. Inconvenience, annoyance, or even expense to the contractor are not acceptable grounds for denying class members the opportunity to attain their rightful place.

7-50.3c Affected class remedies may conflict with applicable collective bargaining provisions. Where this is the case, the EOS should consult with the Office of the Regional Solicitor before proceeding.

7-50.4 Elements of the remedy. Following is a list of elements of a remedy to which affected class members have a right, provided they are appropriate to the discrimination which created the class:

7-50.4a Notification.

7-50.4b Transfer, hire, or promotion as vacancies occur.

7-50.4c Competition for vacancies based on company seniority (or, for affected classes of applicants for employment or terminated employees, company seniority that they would have earned if there had been no discrimination); see, also, section 7-70.3.

7-50.4d Opportunity to return to the original job within a reasonable time without penalty (including no loss of seniority).

7-50.4e Retention of wages on transfer.

7-50.4f Selection based on minimum qualifications of incumbents.

7-50.4g Accelerated training provided by the contractor (where training or experience is a prerequisite to the attainment of affected class members' rightful places).

7-50.4h Compensation for economic losses attributable to discrimination, including continuing effects of past discrimination.

7-60 *Notification*. This involves more than informing affected class members of their right to transfer or to be hired, or polling them to determine their interest in transfer, promotion, or employment. It must guarantee that all class members are fully aware of their rights under the remedial action agreement (including their right to back pay, and front pay, and of any conditions of such payments), and the procedures through which those rights will be affected, including counseling where appropriate. The contractor is not required to admit that an affected class exists, or to tell employees that they are members of such a class. However, even if the contractor does not admit an affected class, it must advise those employees alleged to be part of the class of their right to relief. Effective remedies can be negotiated regardless of whether the contractor admits it discriminated. However, a remedial action agreement is normally not acceptable unless it completely remedies all existing inequities, and fully notifies class members of their rights under the agreement.

7-70 Opportunity for transfer, hire, or promotion as vacancies occur.

7-70.1 A "job vacancy" is any job opening that occurs. Affected class members cannot be restricted to openings existing only after other employees have exercised their bidding rights under collective bargaining agreements.

7-70.2 Affected class members must generally be given more than a "one-time" opportunity to achieve their "rightful place."

7-70.3 Affected class members should sometimes receive priority placement rights ahead of all other employees. Priority placement may be appropriate where few opportunities for placements (in relation to the size of the affected class) will occur.

7-70.4 The contractor must make specific sustained efforts regarding supervisory and other employees to ensure that affected class members are given a fair opportunity to perform satisfactorily in their new jobs, etc. without harassment, retaliation, or intimidation.

70-80 Opportunity to compete for vacancies on the basis of net credited service or plant seniority.

70-80.1 Affected class members, particularly in the blue collar category, should be allowed to compete for available jobs in job areas from which they were formerly excluded based on plant (or company) seniority, both before and after transfer. This is required regardless of the type of seniority (for example, departmental, line, or job seniority) that would otherwise apply. Affected class members (who have been prevented from earning these exclusive forms of seniority) cannot be required to compete on the basis of that which has been denied to them.

7-80.2 Unless business necessity is proven, affected class members cannot be restricted to competing for entry or lower level positions in units from which they were formerly excluded. Where business necessity is proven, affected class members should be given (on an accelerated basis) opportunity for training or experiences which should qualify them for promotion to positions for which, but for discrimination and its continuing effects, they would otherwise be eligible.

7-80.3 For affected classes of rejected applicants and terminated employees, remedies shall be computed under the "make whole" or "rightful place" concepts.

7-90 Opportunity to return to original job without penalty. Members of an affected class who exercise their transfer rights must be guaranteed the right to retreat. That is, if affected class members want to return to their former jobs or cannot successfully perform their new duties after a reasonable trial period, e.g., 90-120 days, they shall be allowed to return to their previous jobs (or jobs of similar content and opportunity) with no loss of wages, seniority, or fringe benefits. Normally, there is some reasonable time limit for exercising retreat rights. (For example, in one case, affected class members were given 90 days to exercise those rights after transfer.)

7-100 Retention of wages upon transfer. Affected class members should not be required to suffer loss of income to exercise their transfer rights. When affected class members transfer to jobs that pay less than their current position, but which open the way to jobs with higher earning potential, they must be paid at their current rates ("red-circled") until, through advancement or longevity increases, their earnings in the new positions exceed the red-circled rates for a substantial period of time.

The red-circled rate should normally be based on employees' average earnings, including incentive payments, if any, over, e.g., a period such as 13 consecutive weeks.

7-100.1 Limitation of red-circled rate. If no job in the unit has average earnings equal to or greater than the red-circled rate calculated above, the red-circled rate can be limited to the rate for the highest paid job in the unit.

7-100.2 Termination of red-circled rate. Generally, and depending on the difficulty of the job, if affected class members have been in new lines of progression or seniority units for a reasonable period of time (e.g., 30 to 60 days) and refuse or fail to qualify for permanent promotions to higher level jobs, red-circling may be ended and the class members may be paid at the standard hourly rate for the jobs they hold (plus incentive pay, etc.). However, affected class members who do not accept opportunities for permanent promotions offered to them in their line of progression in an unreasonably short period of time after their last permanent promotion (e.g., less than 30 days) should not lose their red-circled rates. Two or more failures to qualify for a permanent promotion in one 30-day period would count as only one failure.

7-110 Selection on the basis of minimum validated qualifications of incumbents. An affected class member should normally not be required, as a condition of transfer, to be more qualified than the least qualified incumbent in the job area at the time the discrimination took place. Refer to section 7-30.3c2, on disparate treatment.

7-110.1 Justification by validated requirements. The contractor has the burden of demonstrating that a particular affected-class member is unqualified for a position in the job area from which the class was excluded (that is, that the employee is not or can not become qualified). This burden cannot be met merely by showing that the affected class members' qualifications are not equal to the standard which was in effect at the time that the employee should have entered the job or LOP. The contractor must demonstrate that the educational or other qualification standard which has an adverse impact has been validated under 41 CFR Part 60-3, for the jobs in question. In addition, refer to section 7-30.3c2 on disparate treatment.

7-110.2 Jobs are made available to affected class members on the condition that they are capable, or can be made capable, of performing them. Members of the affected class who are qualified, or can become qualified, to perform jobs from which they were formerly excluded must be given the opportunity to do so.

7-120 Opportunity for accelerated training provided by the contractor. Special training programs must be undertaken for affected class members who are qualifiable, but not immediately qualified for jobs at their "rightful places." Normal residency requirements cannot be imposed on affected class members unless they are demonstrated to be required by business necessity. Intermediate jobs must be carefully evaluated so that affected class members can skip those in which experience is not necessary to perform adequately in their "rightful places." Contractors must give affected class members whatever training is necessary to enable them to reach their "rightful places" in the shortest feasible time period, within the constraints of business necessity.

7-130 Back pay and front pay.

7-130.1a Remedies for affected class members suffering economic loss should include back pay, front pay, or both where appropriate. The calculation of economic loss includes all forms of monetary compensation including incentive pay, bonuses, pensions, fringe benefits, etc. Absence of "bad faith" or

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"intent to discriminate" is no defense against back pay liability. A contractor is liable for the discriminatory consequence of its acts (including, e.g., its failure to take action), not their specific intent.

7-130.2 Back pay computation. Computing the back pay due affected class members can be complicated. However, two broad principles always apply. Unrealistic exactitude is not required, and uncertainties in determining what would have been earned but for discrimination must be resolved in favor of the victim. The key is to avoid unfairly excluding discriminatees by defining the class or the determinants of the award too narrowly.

7-130.2a The method of computation will depend on the complexity of the case. If the class is small and the discrimination is clear, fairly precise determinations are normally possible by hypothetically reconstructing each discriminatee's work history. However, where the class size, ambiguity of promotion or hiring practices, multiple effects of discriminatory practices, or length of time over which the discrimination occurred creates a multitude of hypothetical judgments, a classwide approach to the computation of back pay may be appropriate.

7-130.2b All back pay awards are based on estimates of the difference between the income affected class members would have received during the backpay period, if there had not been discrimination, and/or its continuing affects, and the income they actually received.

7-130.2c Formulas that have been used to calculate back pay include the following:

7-130.2c1 In one case, a court computed back pay awards by averaging. The pay rates for the five skilled, high opportunity job groups from which the affected class had been excluded were averaged. Back pay was based on the difference between that average rate and the income each class member actually received during the back pay period.

7-130.2c2 Another method is the "computing" or "representative employee earnings" formula. Approximations are based on a group of employees who were not injured by the pattern and practice of discrimination, and who are comparable in ability, seniority, and numbers. Affected class members are awarded the difference between the earnings of such comparable employees during the back pay period and their own actual earnings.

7-130.2c3 A third method of computing backpay is the "pro-rata share" method. The class share of jobs that the affected class members would have gotten but for discrimination are identified. This share is based upon the percentage of affected class members in the eligible pool. The EOS then computes the contractor's liability by multiplying the average economic loss suffered by affected class members times the number of additional vacancies which would have been filled by affected class members during the entire period that the discrimination, or failure to take sufficient action to correct the discrimination, continued. The total economic liability determined from this computation is prorated among the entire class. This method is used where there are more class members than vacancies which they could have filled, and it is not possible to identify the class members who would have filled them but for discrimination. In most cases, this method will require extensive computations. NOTE: This method should only be used when more accurate methods are not available.

7-130.2d Period for backpay liability. If the contractor's violation was willful, back pay will be recovered for a period beginning 3 years before the date the contractor is notified in writing of this agency's finding of violation (or, in the case of a complaint, 3 years before the date the complaint was filed) and ending on the date the contractor concludes an acceptable conciliation agreement. Refer to section 7-130.3 on front pay. The term "willful violation" does not necessarily mean that the contractor intended to discriminate, but merely that it reasonably could be expected to understand the consequences of its acts and/or failure to act. If the violation was not willful, back pay will be recovered for a period beginning 2 years before the date the contractor is notified in writing of OFCCP's finding of violation (or 2 years before a complaint was filed), and ending on the date the contractor concludes an acceptable conciliation agreement.

7-130.2d1 Remedies other than back pay (e.g., seniority relief) are not subject to the 2/3 year limitation.

7-130.3 Front pay. In addition to back pay covering affected-class members' past losses due to continuing effects of past discrimination, "front pay" may be required to compensate the affected class members for economic losses that they will continue to suffer between the date of the conciliation agreement and the date they (individually) attain their "rightful places."

7-140 Conciliation. The presentation of findings of discrimination and the resultant affected class(es) to the contractor, and negotiation of remedies through conciliation should normally follow the guidelines provided in chapter 8.

COMPLIANCE REVIEW CHECKLIST (VETERANS/HANDICAPPED)

A. Affirmative Action policy, practices and procedures

Proper consideration of qualifications (41 CFR 60-741.6(b) and 60-250.6(b)). Contractors shall review their personnel processes to determine whether their present procedures assure careful, thorough and systematic consideration of the job qualifications of known handicapped and disabled and Vietnam era veteran applicants and employees for job vacancies filled either by hiring or promotion, and for all training opportunities offered or available. To the extent that it is necessary to modify their personnel procedures, contractors shall include the development of new procedures for this purpose in their affirmative action program required under this Part. These procedures must be designed so as to facilitate a review of the implementation of this requirement by the contractor or the government.

1. Were personnel processes reviewed to ensure fair consideration of job qualification of:

   a. Known disabled and Vietnam era and handicapped applicants and employees?

	503	402
a. Known disabled and Vietnam era and handicapped applicants and employees?	Yes ___ No___	Yes ___ No ___

503 Comments

402 Comments

   b. Describe the review process: How did the contractor go about determining if personnel process ensured fair consideration?

503 Comments

402 Comments

	503	402
2. In the contractor's practices, is there evidence that the military discharge information is used to uniformly reject applicants with less than an honorable discharge?	Yes ___ No___	Yes ___ No ___

503 Comments

402 Comments

a. Do application forms request discharge information

503 Yes ___ No___

402 Yes ___ No ___

503 Comments

402 Comments

b. Describe how information is used in determining eligibility for employment.

503 Comments

402 Comments

3. How many disabled and Vietnam veterans and handicapped individuals were identified during the review of the personnel process?

___ Disabled veterans ___ Vietnam era veterans ___Handicapped individuals

503 Comments

402 Comments

4. Of the identified, how many resulted in affirmative action?

	Disabled Veterans	Vietnam Era Veterans	Handicapped Individuals
a. hiring			
b. promotion			
c. demotion			

	Disabled Veterans	Vietnam Era Veterans	Handicapped Individuals
d. transfer	___	___	___
e. transfer	___	___	___
f. termination	___	___	___
g. alteration of fringe benefits	___	___	___
h. change in pay status	___	___	___

503 Comments

402 Comments

5. Describe procedures used for review of personnel process. 503 402

a. Was Appendix B/C used? Yes ___ No ___ Yes ___ No ___

503 Comments

402 Comments

b. If other procedures were instituted, describe:

B. Physical and Mental Qualifications (41 CFR 60-741.6(c) and 60-250.6(c))

(1) The contractor shall provide in its affirmative action program, and shall adhere to, a schedule for the review of all physical or mental job qualification requirements to ensure that, to the extent qualification requirements tend to screen out qualified handicapped individuals, they are job related and are consistent with business necessity and the safe performance of the job.

(2) Whenever a contractor applies physical or mental job qualification requirements in the selection of applicants or employees for employment or other change in employment status such as promotion, demotion or training, to the extent that qualification requirements tend to screen out qualified handicapped individuals, the requirements shall be related to the specific job or jobs for which the individual is being considered and shall be consistent with business necessity and the safe performance of the job. The contractor shall have the burden to demonstrate that it has complied with the requirements of this paragraph.

(3) Nothing in this section shall prohibit a contractor from conducting a comprehensive medical examination prior to employment provided that the results of such an examination shall be used only in accordance with the requirements of this section. Whenever a contractor inquires into an applicant's or employee's physical or mental condition or conducts a medical examination prior to employment or change in employment status information obtained in response to such inquiries or examination shall be kept confidential except that:

(i) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped individuals and regarding accommodations; and

(ii) First aid and safety personnel may be informed, where and to the extent appropriate, if the condition might require emergency treatment; and

(iii) Government officials investigating compliance with the Act shall be informed.

1. How many jobs does contractor have to review for mental and physical requirements? ______

2. Has contractor begun a scheduled review of all mental and physical requirements?

   Beginning date ______________________ Ending date ______________________

   Number of jobs reviewed as of date of compliance review ________________

   503 Comments

   402 Comments

3. Describe procedure used to determine if job requirement is:

   a. job related

503 Comments

402 Comments

b. Consistent with business necessity

503 Comments

402 Comments

c. consistent with safety

503 Comments

402 Comments

4. a. For each job requirement reviewed to this point by the contractor, describe analysis applied by the contractor (similar jobs may be grouped for purposes of such descriptions).

503 Comments

402 Comments

b. Did the contractor adequately verify the job relatedness of medically disqualifying conditions?

503 Comments

402 Comments

5. How many jobs have resulted in changed mental and physical requirements?_

503 Comments

402 Comments

6. List job requirements which HEO/VEO recommends to be changed, including changes proposed.

503 Comments

402 Comments

	503	402
7. Is the use of a physical examination in accordance with provisions of §60-250.6(c)(3) and §60-741.6(c)(3)?	Yes ___ No ___	Yes ___ No ___

503 Comments

402 Comments

a. Note necessary changes.

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8-10 Purpose

8-10.1 To provide instructions for resolving issues of noncompliance under all OFCCP programs, as appropriate. These programs are:

8-10.1a Executive Order 11246, as amended and its implementing rules, regulations, and orders.

8-10.1b Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 and

8-10.1c Section 503 of the Rehabilitation Act of 1973, as amended.

8-10.2 Where individuals and/or groups have been harmed by failure to remedy past discrimination, to obtain remedies to correct the effects of the discrimination and prevent its recurrence.

8-10.3 To set out normal enforcement and conciliation procedures, and suggested minimum standards for remedies.

8-20 Applicability. This chapter should normally be followed whenever noncompliance is found. Unless otherwise specified, the guidelines in this chapter apply to both supply and service and construction contractors.

8-30 Resolution of noncompliance: General principles

8-30.1 (Reserved)

8-30.2 Distinction between remedies and sanctions:

8-30.2a Remedies: Remedies, or corrective actions, are the means by which a "right is enforced or the violation of a right is prevented, redressed or compensated" (*Black's Law Dictionary*, 4th Ed. 1968). Remedies (for example, expanded recruitment efforts or back pay) are affirmative steps that are required to eliminate the effects of discrimination and/or noncompliance. They are corrective, not punitive.

8-30.2b Sanctions. Sanctions (for example, termination of a contract or debarment) are appropriate where a contractor fails to implement acceptable remedies for noncompliance, or where voluntary remedies are inappropriate (see, for example, section 8-30.4c).

8-30.3 Standard for remedies. Remedies must be sufficient not only to ensure future compliance, but also to fully correct the effects of past noncompliance (Castillo v. Marshall, USDC N.D. Calif., Civil Action No. 73-282 AJZ).

8-30.4 Voluntary resolution of noncompliance.

8-30.4a Noncompliance is voluntarily resolved where a contractor agrees, in writing (see section 8-110), to implement acceptable remedies with or without issuance of a show cause notice or initiation of enforcement action.

8-30.4b During the normal 60-day compliance review period, identified deficiencies may be voluntarily resolved at any point (except, for example, as specified in 8-30.4c).

8-30.4c Voluntary resolution of deficiencies may be inappropriate where:

8-30.4c1 The nature of the noncompliance indicates a complete disregard for any of OFCCP's programs. (An example of "complete disregard" is a refusal by a contractor to develop an AAP.)

8-30.4c2 The contractor refuses to provide affected class type relief (for example, back pay).

8-30.4c3 The contractor makes false representations.

8-30.4c4 The contractor does not comply with OFCCP's determination that it is subject to the requirements of any OFCCP program.

8-30.4c5 The contractor does not agree, in writing, to the types of remedies set forth in this chapter.

8-30.5 Show cause notice, notice of alleged noncompliance and letter of deficiencies under the Executive Order.

8-30.5a A show cause notice is issued when administrative enforcement is contemplated as a result of the contractor's submission of a seriously deficient AAP for desk audit, or for failure to voluntarily resolve noncompliance issues before the end of the normal 60-day compliance review period, or where otherwise appropriate. The contractor has then 30 days to satisfy OFCCP that the noncompliance does not exist, or to conclude a conciliation agreement which fully remedies the noncompliance. Note: A show cause notice is not required in all circumstances which result in administrative enforcement. Refer to, for example, 41 CFR 60-1.26(a)(2), 60-1.24(b), and 60-4.8.

8-30.5b A notice of alleged noncompliance and not a show cause notice, is issued where there is reason to believe that the contractor has violated a conciliation agreement. Unless irreparable injury is alleged, the contractor has 15 days from receipt of the notice to demonstrate that it complied with the requirements of the conciliation agreement.

8-30.5c A letter of deficiencies is used to notify the contractor of noncompliance discovered during a preaward review. Refer to chapter 5.

8-30.6 Demonstration of "good cause" for noncompliance.

8-30.6a A showing of "good cause" is a legal defense for noncompliance. Proof that a contractor is exempt from an OFCCP program, for example, constitutes good cause for the contractor not complying with that particular program.

8-30.6b "Good cause" is different from "good faith efforts." "Good faith efforts" may excuse a contractor from failing to meet a goal or save it from sanctions, but would not necessarily exonerate it from the requirements of laws involved.

8-30.7 Enforcement proceedings. The EOS should prepare the file for enforcement where:

8-30.7a A contractor fails to fully remedy noncompliance with an acceptable conciliation agreement before the show cause period is completed.

8-30.7b A contractor fails to demonstrate that it has complied with a conciliation agreement before a notice of alleged noncompliance expires. Refer to section 8-160. No show cause notice is required.

8-30.7c Other appropriate instances.

8-30.7d In certain cases, DOL can initiate enforcement proceedings without first issuing a show cause notice. Refer to section 8-30.5a.

8-30.7e Enforcement proceedings pursuant to 41 CFR 60-1.26 may include either:

8-30.7e1 Administrative enforcement proceedings. An administrative hearing will be held before an Administrative Law Judge (see 41 CFR Part 60-30).

8-30.7e2 Judicial enforcement proceedings. Upon the request or concurrence by the Director, the Attorney General can seek a court order requiring remedies for past noncompliance and prohibiting future noncompliance

8-30.7f Upon referral, the Attorney General may bring suit against a noncontractor (such as a labor union) which impedes compliance with the Executive Order program.

8-30.8 Sanctions and penalties. Some of the sanctions and penalties which can be imposed for noncompliance are set forth in Section 209 of the Executive Order. This is not an exclusive list (see, for example, Section 202(6) of the Executive Order).

8-40 Show cause notice: Issuance

8-40.1 Supply and service contractors. A show cause notice should normally be issued only at the following points:

Note: A show cause notice is not mandatory under the Executive Order, where, for example, 1) a contractor fails to submit the requested AAP and supporting documentation, 2) where a contractor refuses to provide access to the establishment or to necessary information, 3) where the contractor harasses an EOS, 4) violation of a conciliation agreement. Refer to 41 CFR 60-1.26(a)(2).

8-40.1a During desk audit when it is determined that the contractor's AAP is seriously deficient.

8-40.1b During or at the end of the normal 60-day compliance review period, where a contractor fails to voluntarily resolve noncompliance issues.

8-40.2 Where the AO issues a show cause notice after the desk audit has begun and the contractor's AAP remains seriously deficient at the end of the show cause notice period, that office should propose administrative enforcement proceedings.

8-40.3 Where a show cause notice is issued after the desk audit has begun and a reviewable AAP is received, the EOS should complete the review. If additional deficiencies are subsequently identified, the RO should normally issue an amended show cause notice listing these deficiencies and the original deficiency.

8-40.4 Construction Contractors. A show cause notice should normally only be issued at the following points:

Note: A show cause notice is not mandatory in, for example, items 2-4 of the note following 8-40.1, above.

8-40.4a Where a contractor fails to submit the Monthly Employment Utilization Report (CC-257), an initial listing of all Federally funded or assisted contracts within the geographical area of coverage, and/or subsequent monthly updates of the listing. The notice normally should be issued no sooner than five days after the normal due date following the second month of non-receipt of the reports and/or listings.

8-40.4b Where a contractor fails to meet the minimum utilization goals and to adequately document implementation of its affirmative action obligations, and fails to remedy those deficiencies in an adequate conciliation agreement.

8-40.c Where a contractor discriminates in employment and fails to provide adequate remedies in a conciliation agreement.

8-50 Show cause notice: Signature, review and processing requirements.

8-50.1 Show Cause Notices issued before desk audits for failure to submit responsive AAPs (Section 8-60.3) or based on failure to provide access to records during compliance reviews should normally be signed by the AOD. On the day a show cause notice is signed by the AOD, a copy will be sent to the RO. On the day of receipt at the RO a copy of the show cause notice signed by the AOD will be forwarded to the Branch of Sanction Review through the Director, OFCCP.

8-50.2 The ARA or Director, OFCCP, shall sign all other show cause notices. Unless the Director specifically provides otherwise, the Director shall sign any show cause notice initiated by the NO, and others as appropriate.

8-50.3 The AOD is responsible for sufficiency of the proposed show cause notice.

8-50.4 Prior to forwarding the proposed show cause notice to the ARA, the AOD should normally ensure that:

8-50.4a The SCRR has been accurately completed.

8-50.4b All apparent deficiencies were identified.

8-50.4c All outstanding deficiencies are addressed in the show cause notice.

8-50.4d Deficiencies and corrective action principles are listed concisely, and meet the requirements of this chapter.

8-50.5 In making the sufficiency determination, the AOD should (at least) review the:

8-50.5a Completed SCRR.

8-50.5b Case files.

8-50.5c AAP and support data.

8-50.5d **Other documentation of alleged deficiencies.**

8-50.6 The AOD should ensure that any necessary changes in the proposed show cause notice are made before transmittal to the ARA.

8-50.7 The DRO should review the proposed show cause notice for sufficiency and make a recommendation to the ARA.

8-50.8 The RO should normally process the proposed show cause notice within 10 working days of receipt. During the 10-day period, the ARA should either sign the proposed show cause notice or return it to the AO for revision.

8-50.9 The RO shall forward information copies of all show cause notices to the Branch of Sanction Review, NO, through the Director, OFCCP, on the day they are signed by the ARA.

8-50.10 The ARA shall provide information copies of all show cause notices he/she signs to the Regional Solicitor.

8-60 Show cause notice: Format

8-60.1 In General 1c, a show cause notice normally has two parts:

8-60.1a A cover letter stating the general requirements of the notice and the regulatory bases.

8-60.1b An enclosure stating the alleged deficiencies and suggested corrective action requirements.

8-60.2 Statements of alleged deficiencies and suggested corrective action requirements should:

8-60.2a Be as concise as possible.

8-60.2b Not include names of employees (except of individual complainants where the show cause notice results from a complaint investigation).

8-60.2c Be supported by citations of relevant regulations.

8-60.2d In identifying an alleged affected class, the notice should indicate that the alleged class "includes, but is not necessarily limited to ____________________."

8-60.3 Show cause notice formats (supply and service)

8-60.3a Basic format. Except where the Director orders or approves otherwise, the RO and NO should use the format in figures 8-1 (cover letter) and 8-2 (enclosure) for all show cause notices issued to supply and service contractors (except as specified in sections 8-60.3b, c, and d below).

8-60.3b Format for seriously deficient AAP. Except where the Director orders or approves otherwise, the AO should use the format in figures 8-3 (cover letter) and 8-4 (enclosure) for show cause notices issued prior to desk audit because the AAP is seriously deficient.

8-60.3c Formats where no AAP is submitted. As show cause notices are not normally issued in this instance, the ARA or the Director shall approve issuance of all such show cause notices. Except where the Director orders or approves otherwise, the AO should use the format in figure 8-5 for show cause notices when no AAP has been submitted. This format is optional, as 41 CFR 60-1.26 specifies that a show cause notice is not required if the contractor fails to submit an AAP.

8-60.3d Format to amend show cause notice to include additional deficiencies. Except where the Director orders or approves otherwise, the RO should use the formats in figures 8-6 (cover letter) and 8-7 (enclosure) where a show cause notice has been issued (under section 8-60.3(c) above) and additional deficiencies are identified during the compliance review.

8-60.4 Basic show cause notice format (construction).

8-60.4a Use. This format should be used for the show cause notice issued to construction contractors.

8-60.4b Cover letter. See figure 8-8 and 8-9.

8-60.4c Enclosure. See figure 8-10.

8-70 Show cause notice: Distribution of copies (Reserved).

8-80 Show cause notice: Notification of local and national union.

8-80.1 Policy. The RO should normally notify the union local of any show cause notice or deficiency which requires changes in their collective bargaining agreement or which otherwise affects a substantial number of employees represented by the union. Union locals are usually not notified of other deficiencies.

8-80.2 Procedure for notifying union local (Reserved).

8-80.3 Procedure for notifying AFL-CIO. The Director, OFCCP should normally notify the AFL-CIO, Civil Rights Division if a show cause notice is issued that affects the collective bargaining agreements of its affiliated unions.

8-90 Show cause notice: Recision.

8-90.1 The RO shall rescind a show cause notice only where the:

8-90.1a Contractor has agreed in an acceptable conciliation agreement to implement remedies for all identified deficiencies.

8-90.1b ARA or the Director determines that the alleged noncompliance did not exist; or that the contractor has demonstrated "good cause" for the noncompliance. Refer to section 8-30.6.

8-90.1c Show cause notice was erroneously issued.

8-90.2 The RO shall not normally rescind a show cause notice merely because the contractor agrees to comply in the future. A contractor must also implement remedies which completely eliminate the effects of past noncompliance. See 41 CFR 60-1.20(b), 60-4.8. (Castillo v. Marshall, USDC N.D. Calif. Civil Action No. 73-282 AJZ).

8-90.3 The Director, OFCCP, must approve any recision of a show cause notice based on a contractor's actual demonstration of "good cause" for noncompliance (see section 8-30.6).

8-90.4 The AO should normally recommend enforcement proceedings if a show cause notice has not been resolved as required by section 8-90.1, within 30 days, unless an extension has been granted by the Director.

8-100 Recision letters. The ROs and NO, as appropriate, should rescind show cause notices by letter.

8-100.1 See figure 8-11 for format.

8-100.2 Signature.

8-100.2a The ARA normally should sign the recision letter for a show cause notice issued in the region.

8-100.2b Except where he/she provides otherwise, the Director should sign the recision letter for a show cause notice issued or directed by the NO, and others as appropriate.

8-100.3 Review and concurrence.

8-100.3a Except where a show cause notice was erroneously issued, a recision letter normally should only be issued when an acceptable conciliation agreement has been entered.

8-100.3b The AO shall prepare a proposed recision letter and transmit it to the ARA with the proposed conciliation agreement (see section 8-130.6). The DRO should normally review the conciliation agreement. Except where the Director provides otherwise, the ARA should sign the recision letter where a conciliation agreement is found to be acceptable.

8-100.4 Management review. The DRO shall review the case file to ensure that:

8-100.4a Where appropriate, the SCRR has been fully and accurately completed.

8-100.4b All compliance questions raised during and after the desk audit were apparently resolved during the compliance review.

8-100.4c The proposed conciliation agreement, if any, fully remedies all identified deficiencies.

8-100.4d All required changes in the contractor's AAP have been made, and are referenced in the conciliation agreement. The ARA normally should not rescind a show cause notice based on the contractor's promise to submit such changes in the future.

8-100.4e The recision letter is justified in accordance with section 8-90.1 and the case file contains the documentation needed to support the recision.

8-100.5 Distribution of copies (Reserved).

8-110 Usage of conciliation agreements and letters of commitment.

8-110.1 Conciliation agreements are required in the following instances (where a matter is not processed for enforcement).

8-110.1a In all cases involving affected class, and remedies associated with such findings, including, but not limited to, back pay, seniority revisions, and special or priority consideration for hiring, promotion, transfer or training of discriminatees.

8-110.1b When an AAP is found to have major deficiencies, such as, absence or substantial inadequacy of work force data; absence or substantial inadequacy of availability or utilization analyses; absence or substantial inadequacy of goals and timetables; or absence or substantial inadequacy of the contractor's affirmative action commitments.

8-110.1c When a contractor has substantially deviated from a previous AAP (e.g., failed to meet its goals and timetables), and has failed to show good cause for the deviation.

8-110.1d Where there is noncompliance with the OFCCP Sex Discrimination Guidelines (41 CFR Part 60-20), such as in the case of a contractor's failure to afford reasonable leave for child-bearing and return to the same or similar job without loss of seniority credits.

8-110.1e Where there is noncompliance with the Uniform Guidelines on Employee Selection Procedures (41 CFR Part 60-3).

8-110.1f When a contractor has not taken action specified in a letter of commitment and has failed to show good cause therefor. (Serious violations of a letter of commitment, however, may require the initiation of enforcement proceedings against the contractor.)

8-110.1g Whenever a show cause notice has been issued, unless the show cause was erroneously issued or the contractor can show good cause for the deficiencies.

8-110.2 Letters of commitment are used where a show cause notice has not been issued and:

8-110.2a When modifications of an AAP consist of minor changes in goals in certain job groups; negotiated revisions of job grouping for purposes of clarity or efficiency (provided originally submitted goals and job groups were developed in good faith); or limited changes in the determination of availability in certain job groups are negotiated. Conciliation agreements are required, however, if the AAP provisions were not developed in good faith or if "make-up" goals are necessary for failure to meet prior commitments.

8-110.2b Deficiencies are readily correctable, other than those listed in section 8-110.1

8-110.2c Only minor changes in previously approved AAP formats are required and bad faith is not alleged. Conciliation agreements are required, however, in any of the circumstances listed in section 8-110.1, regardless of whether or not the AAPs were previously approved.

8-120 Content of letters of commitment. Letters of commitment will be dated and signed by an authorized official of the contractor, and will include the complete title of the signing contractor official. The letter will itemize the deficiencies and the corrective actions and will specify the dates when the corrective actions were or will be completed. The enforcement clause in section 8-130.3 is not required.

8-130 Format for conciliation agreements. The AO should use this format for all conciliation agreements, unless amendments are approved by the Director, OFCCP. Refer to figure 8-12 for a sample conciliation agreement.

8-130.1 Heading. Each conciliation agreement will be headed:

Conciliation Agreement
Between OFCCP and
[name of contractor]
[name and address of establishment or
unit covered by the agreement]

8-130.2 General provisions. The first section of each conciliation agreement will be titled "Part 1, General Provisions" and specify:

8-130.2a That the agreement is between the OFCCP and [name and address of contractor (where desirable, an abbreviation for the name of the contractor and unit to be used in the remainder of the agreement may be specified here)].

8-130.2b The dates of the review, and/or complaint investigation, and show cause notice giving rise to the conciliation agreement.

8-130.2c The EOS should always endeavor to have the contractor admit the violation(s) set forth in Part II of the conciliation agreement. If the contractor refuses to admit the violation(s), however, the following disclaimer may be used:

> "This agreement does not constitute an admission by (name of contractor) of any violation of (Executive Order 11246, as amended/Section 503 of the Rehabilitation Act of 1973, as amended/Section 402 of the Vietnam Era Veterans Readjustment Act of 1974)."

8.130.2d

> "The provisions of this agreement will become part of the (name of contractor) AAP. Subject to the performance by (name of contractor) of all promises and representations contained herein and in its AAP, all named deficiencies in regard to the compliance of (name of contractor) with all OFCCP programs will be deemed resolved. However, the (name of contractor) is advised that the commitments contained in this agreement do not preclude future determinations of noncompliance based on a finding that the commitments are not sufficient to achieve compliance."

8-130.2e That:

> "(Name of contractor) agrees that OFCCP may review compliance with this agreement. As part of such review, OFCCP may require written reports, inspect the premises, examine witnesses, and examine and copy documents."

8-130.2f That:

> "Nothing herein is intended to relieve (name of contractor) from compliance with the requirements of Executive Order 11246, as amended,"

or, when appropriate,

> "and/or Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 or Section 503 of the Rehabilitation Act of 1973, as amended or its implementing regulations."

8-130.2g That:

> "(Name of contractor) agrees that there will be no retaliation of any kind against any beneficiary of this agreement, or against any person who has provided information or assistance, or who files a charge, or who participates in any manner in any proceeding under Executive Order 11246, as amended."

or, when appropriate,

"or section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, or section 503 of the Rehabilitation Act of 1973, as amended."

8-130.2h That:

"This agreement will be deemed to have been accepted by the Government on the date of signature by the Assistant Regional Administrator unless the Director, OFCCP indicates otherwise within 45 days of his/her receipt of the agreement."

8-130.3 Mandatory enforcement clause. The following enforcement clause will be included in all conciliation agreements: The enforcement clause may not be modified in any way without the express prior approval of the Director, OFCCP.

> "If at any time in the future, OFCCP believes that the (name of contractor) has violated any portion of this agreement, (name of contractor) will be promptly notified of that fact in writing. This notification will include a statement of the facts and circumstances relied upon in forming that belief. In addition, the notification will provide the (name of contractor) with 15 days to respond in writing except where OFCCP alleges that such a delay would result in irreparable injury. It is understood that enforcement proceedings for violation of this agreement may be initiated at any time after the 15-day period has elapsed (or sooner, if irreparable injury is alleged) without issuing a show cause notice. It is recognized that where OFCCP believes that the (name of contractor) has breached the conciliation agreement, evidence regarding the entire scope of the (name of contractor) alleged noncompliance which gave rise to the show cause notice from which this conciliation agreement resulted (where no show cause notice was issued, delete the words "which gave rise to the show cause notice") in addition to evidence regarding the (name of contractor) alleged violation of the conciliation agreement, may be introduced at the enforcement proceedings. It is further recognized that liability for violation of this agreement may subject the (name of contractor) to sanctions set forth in Section 209 of the Executive Order and appropriate relief."

8-130.4 Specific provisions. The second section of each conciliation agreement will be titled "Part II, Specific Provisions."

8-130.4a Each problem area will be concisely defined in paragraph form and numbered consecutively. Each problem area will be supported by citation of the relevant regulation(s).

8-130.4b Each problem area will be followed by a specific description of the agreed upon remedies, including specific dates for completion. Changes in an AAP will be referenced in the agreement. Changes in other documents will be referenced in the agreement and the documents attached. If the contractor has already carried out certain of the agreed upon remedies, that fact should be specified in the conciliation agreement, and accompanied by a commitment not to repeat the deficiency.

8-130.5 Reporting. The final section of each conciliation agreement that requires reporting will be titled "Part III, Reporting" and will detail the nature and frequency of the reports to be filed by the contractor. Reports should contain sufficient information, and be submitted frequently enough, to enable thorough review of compliance with the agreement.

8-130.6 Procedures and approval

8-130.6a The AO should normally negotiate the conciliation agreement. The RO or NO, as appropriate, should supervise the negotiation of a conciliation agreement with regional or national implications.

8-130.6b A conciliation agreement negotiated by AO personnel must meet all format requirements including the mandatory enforcement clause specified in section 8-130.3.

8-130.6c The conciliation agreement shall be executed by contractor officials who have the authority to commit the contractor to the course of action specified in the conciliation agreement. In addition to the contractor signing and dating the agreement, the official's name and title must be typed or printed just below the signatory line.

8-130.6d After the contractor has signed the agreement, the AOD, prior to signing and forwarding the proposed conciliation agreement to the RO, should ensure that:

8-130.6d1 Where a show cause notice was issued and a conciliation agreement is mandatory in order to stay formal enforcement proceedings, the conciliation agreement contains full remedies for all cited deficiencies and meets all format requirements.

8-130.6d2 Where a show cause notice was not issued and a conciliation agreement is required, the conciliation agreement fully resolves all deficiencies identified during the compliance review, or complaint investigation, etc.

8-130.6e When approved and signed, the AO shall send the conciliation agreement package to the RO and include a copy of the show cause notice (if issued), SCRR, AAP, and support data documentation related to deficiencies resolved in the conciliation agreement. Refer also to section 8-130.6k5. The AO should send the conciliation agreement package to the RO on the date signed by the AOD. If a show cause notice has been issued, the conciliation agreement package must also include a brief narrative report of the issues involved, contentions of the AO; positions, arguments, contentions, etc., of the contractor; and the results reached and reasons therefor. The narrative report should be as brief as possible but should be structured to give a good flavor of what was involved in the case and reasons for the final result. The narrative report should be double-spaced and should not normally exceed ten pages. The report should also contain the following:

8-130.6e1 Identification of the contractor's violation(s) for which no good cause has been shown with an explanation of the remedy for each violation.

8-130.6e2 A statement explaining why the case is one in which resolution by means of a conciliation agreement is appropriate.

8-130.6e3 A statement that the contents of the conciliation agreement satisfy applicable requirements.

8-130.6e4 A request for approval of the conciliation agreement or, in the alternative, a request for enforcement proceedings pursuant to 41 CFR 60-1.26, if the Director finds that the conciliation agreement is either inadequate or inappropriate.

8-130.6f With the exception of the original conciliation agreement requiring the signature of the ARA, all documents submitted to the RO should be photocopies of the originals maintained in the AO. (When the ARA approves and signs the original conciliation agreement it should be returned, after photocopying, to the AO for retention.)

8-130.6g Within ten days of receipt of the proposed conciliation agreement package from the AOD, the DRO should evaluate the proposed agreement and determine whether it should be accepted or rejected. If the conciliation agreement package is provisionally approved by the ARA, the ARA should sign and date the agreement. If it is disapproved, the ARA should indicate in writing the reason(s) for disapproval and return the package to the AO with instruction for further negotiation and a prompt due date for return to the RO.

8-130.6g1 After approval of the agreement by the ARA, a copy of the signed conciliation agreement will be sent to the contractor by certified mail. The 10 day time period for contractor request for hearing, as specified in 41 CFR 60-1.24(c)(4), will begin upon contractor receipt of the signed copy from the ARA.

8-130.6h Upon approval by the ARA, and only as specified in section 8-130.6k below, a copy of the dated and signed conciliation agreement, any associated show cause notice issued, and the SCRR shall be forwarded to the Director, Attention: Branch of Conciliation Review. (The RO shall make every effort to send the conciliation agreement package to the NO on the date signed by the ARA.)

8-130.6i The RO will retain in its files copies of the AAP, support data and all other documents related to deficiencies resolved in the agreement for at least 90 days after submission of the conciliation agreement package to the NO. This will permit the NO Branch of Conciliation Review to request submission of the AAP and other documentation for an in-depth analysis of the complete file if necessary.

8-130.6j A conciliation agreement is considered accepted by the Government on the date signed by the ARA unless the Director indicates otherwise within 45 days of his/her receipt of the agreement. All conciliation agreements must contain language to this effect. Refer to section 8-130.2h.

8-130.6k The ARA shall forward to the NO all conciliation agreements, SCRRs and show cause notices (if issued) which fall under the following categories:

8-130.6k1 Agreements with contractors and subcontractors which have facilities in more than one region (in order to assure national uniformity of approach to such contractors).

8-130.6k2 Agreements involving an affected class regardless of the number of people receiving relief.

8-130.6k3 Agreements involving back pay.

8-130.6k4 Agreements which have been specifically identified as being of interest to the Branch of National Programs, NO.

8-130.6k5 In the instances cited in 8-130.6k2, 3, and 4, the conciliation agreement package must also include the AAP with work force and utilization analysis and appropriate support documentation in addition to the materials enumerated in section 8-130.6e.

8-130.6l The remaining agreements, i.e., those concerning contractors and subcontractors with only intra-regional establishments, and agreements not falling within sections 8-130.6k2, 3, and 4 above should not be forwarded to the NO unless specifically requested. Such agreements which are not initially sent to the NO shall be deemed approved by the Director unless, during the 45 day period, the Director requests that the agreement be forwarded to him/her. In that event, the contractor shall be notified in writing of that fact, and 8-130.6 will be applicable.

8-140 Retention of evidence regarding deficiencies resolved in conciliation agreements. All evidence regarding deficiencies resolved in conciliation agreements will be retained by the AO so that it can be readily retrieved and used in enforcement proceedings if the agreements are violated.

8-150 Timely evaluation of progress reports. The EOs should normally evaluate progress reports within 15 days of receipt and promptly forward written evaluations to contractors. The EOS should retain copies in the case files.

8-160 Procedures in event of noncompliance with a conciliation agreement. Compliance with a conciliation agreement is monitored through progress reports, followup reviews, and other appropriate means. Where there is reason to believe that the contractor has violated a conciliation agreement, a notice of alleged noncompliance will be issued.

8-160.1 Notices of alleged noncompliance with a conciliation agreement.

8-160.1a All notices of alleged noncompliance will include a cover letter, an enclosure citing the provisions the contractor is alleged to have violated, and the bases for the allegations.

8-160.1b Where irreparable injury is alleged (see 8-160.2), the AOD shall attempt to orally notify the contractor prior to processing the matter for enforcement. Oral notification should be followed by a written notice.

8-160.1c Where irreparable injury is not alleged, the notice will give the contractor 15 days to demonstrate, through the written presentation of facts and evidence, that it complied with the cited provisions. If the contractor is unable to make such a demonstration, including adequate evidence of good faith effort where appropriate, the matter will be processed for enforcement.

8-160.1d The cover letter format for Notices of Alleged Noncompliance, where irreparable injury is alleged, is illustrated in figure 8-13. Note: Irreparable injury is only alleged in unusual circumstances. Refer to section 8-160.2.

8-160.1e The cover letter format for Notices of Alleged Noncompliance, where irreparable injury is not alleged is illustrated in figure 8-14.

8-160.1f The format for enclosures to Notices of Alleged Noncompliance is illustrated in figure 8-15.

8-160.2 Irreparable injury. Where a violation of a conciliation agreement, either in progress or expected to occur, could not be readily corrected if allowed to proceed (irreparable injury might result if the contractor were permitted the normal 15-day response period). Examples of such circumstances are:

8-160.2a A vacancy which occurs only infrequently (as may often be the case with higher level positions) is about to be filled in a manner inconsistent with the conciliation agreement.

8-160.2b Employees are experiencing severe harassment or retaliation.

8-160.2c Employees are about to be laid off or discharged in violation of a conciliation agreement.

8-160.2d The contractor has substantial minority goals and is about to hire a large number of employees, all of whom are white.

8-160.3 Notices of alleged noncompliance: Issuance.

8-160.3a The AOD should send all proposed notices of alleged noncompliance to the ARA for signature. Support data will include:

8-160.3a1 A copy of the conciliation agreement or other document the contractor is alleged to have violated.

8-160.3a2 A summary of the evidence on which the allegation is based.

8-160.3a3 Supporting documentation.

8-160.3b The DRO should evaluate proposed notices of alleged noncompliance and furnish recommendations to the ARA.

8-160.3c Within 10 days of receipt by the RO, the ARA should make every effort to sign the notice or return it to the AO for appropriate action.

8-160.3d The RO should forward information copies of all notices of alleged noncompliance it issues to the NO Branch of Sanction Review through the Director.

8-170 Enforcement proceedings.

8-170.1 Enforcement proceedings will be normally recommended where:

8-170.1a Deficiencies cited in a show-cause notice are not resolved in a conciliation agreement before the notice expires.

8-170.1b A contractor is not able to demonstrate that it complied with a conciliation agreement before a Notice of Alleged Noncompliance expires, where irreparable injury is not alleged.

8-170.1c A notice of Alleged Noncompliance alleging irreparable injury has been issued.

8-170.1d Any of the circumstances in 41 CFR 60-1.26(a) or in 60-250.26 (g)(3), 60-250.27, 60-741.26(g)(3) or 60-741.27 are present, and an acceptable conciliation agreement is not entered and/or a conciliation agreement is not appropriate.

8-170.2 Revocability of enforcement proceedings. Efforts to voluntarily resolve noncompliance may continue throughout the enforcement process. While settlement negotiations will not delay enforcement proceedings, OFCCP, or SOL, as appropriate, may halt such proceedings if a contractor agrees to satisfactory remedies for its noncompliance.

8-170.3 Types of enforcement proceedings.

8-170.3a Where a non-sole source contractor is involved, administrative enforcement proceedings should normally be recommended.

8-170.3b Where a sole source contractor (for example, an electric utility) is involved, judicial enforcement proceedings should normally be recommended. However, the final decision as to what type of action is to be brought will be decided by the Office of the Solicitor.

8-170.4 (Reserved)

8-170.5 Case file assembly format for enforcement proceedings. A case file submitted for enforcement action is to be organized as follows and include the following information (as applicable):

8-170.5a Tab 1: Transmittal memorandum. A memorandum to the Director, OFCCP which:

8-170.5a1 Is captioned with the full corporate name and address of the contractor.

8-170.5a2 Gives details (e.g., contract number, contracting agency, dollar amount of contract, term of contract, goods or services to be provided under contract) of all Federal contracts and subcontracts and federally assisted contracts and subcontracts of which the AO is aware.

8-170.5a2a In Executive Order cases, at the very least, provides information on a contract or contracts establishing basic coverage during the period for which violations or deficiencies are being asserted (refer to 41 CFR 60-1.5(a)(1) or, if violation of 41 CFR Part 60-2 is alleged, information on a contract establishing written AAP coverage (refer to 41 CFR 60-1.40(a)).

8-170.5a2b If the proposed enforcement action is based on a violation of Section 503 of the Rehabilitation Act of 1973, as amended, or Section 402 of the Vietnam Era Veterans Readjustment Assistance

Act of 1974, then a single contract in excess of $2,500 (503) or for $10,000 or more (402), signed, or in the case of an existing contract, modified, amended, etc. after the date of the Act in question and effective on the date of the alleged violation, must be cited.

8-170.5a3 States whether the contractor claims to be exempt from the coverage of any or all of OFCCP's programs, the basis for such claim, and indicates whether or not the contractor is exempt.

8-170.5a4 Summarizes the facts regarding the violation. Includes a general description of the contractor's operation. The employment profile of the contractor should be presented using at least 2 EEO-1 reports, one current and one of several years ago.

8-170.5a5 Concisely lists each violation. Each violation must be supported by citations of relevant regulations, and a summary of the evidence of the violation.

8-170.5a6 Lists any unresolved legal or factual issues.

8-170.5a7 Describes conciliation efforts, and their results.

8-170.5a8 States the recommended disposition of the case and the reasons for the recommendation.

8-170.5b Tab 2: Verification of coverage. Where coverage is or may be an issue, include copies of applicable Federal contract(s) and subcontract(s), and describe when contract was entered, with whom, etc. As a general rule, a copy of at least one contract which establishes coverage should be included.

8-170.5c Tab 3: Chronology of events. Includes dates of compliance reviews, deficiency letters, show cause notices, conciliation meetings, and other relevant information.

8-170.5d Tab 4: Complainant's charge or statement (if applicable).

8-170.5e Tab 5: Statements of witnesses for the complainant(s) (if applicable).

8-170.5f Tab 6: Affected class data (if applicable) including:

8-170.5f1 Names, addresses, employee numbers, and phone numbers of affected class members.

8-170.5f2 Work histories (including job related experience and education) of affected class members including, but not limited to, date of initial hire and initial job, department, division, and location; and present job location, rate of pay, and date of assignment to it. Gather as much data as possible, although it may not be possible to assemble complete data for each class member in a timely fashion where the class is large. In such instances, the sampling techniques in chapter 7 may be used.

8-170.5f3 A description of the discriminatory practice or practices alleged to have created the affected class. Provide evidence of injury to class members including, where appropriate, comparisons of wages of class members and nonmembers who were hired in the same year (or other appropriate time period) for the same kinds of jobs e.g., blue collar.

8-170.5f4 Copies of interviews with affected class members and other persons.

8-170.5g Tab 7: Respondent contractor's position. Include any written statements by the contractor and describe its defenses.

8-170.5h Tab 8: Statements of witnesses for the contractor.

8-170.5i Tab 9: Reports of interviews with employees.

8-170.5j Tab 10: Reports of interviews with doctors.

8-170.5k Tab 11: Records and documents. Under separate subtabs, include copies of all documentary evidence such as deficiency letters, show cause notices, SCRR, former conciliation agreements and letters of commitment, and other relevant information.

8-170.5l Tab 12: Hiring and promotion practices. Under separate subtabs, included the following information, where applicable:

8-170.5l1 Describe the contractor's seniority system, e.g., job, line of progression, plant, or company seniority, and explain any changes in the system from January 1, 1964, to the present.

8-170.5l2 Where it is alleged that affected class members have been concentrated in certain jobs, indicate the titles of such jobs, including line of progression, department, division, location, and other relevant information.

8-170.5l3 Give name and description of tests used by the contractor for hire, promotion, and other personnel actions which impact on minorities, women. Include applicable statistical evidence. Describe any disparate impact. Include the name and title of the author of the test, the date it was first used, how it is scored, the weight assigned to it, and other relevant information including validation studies, if available. Include evidence of disparate treatment. Describe job qualification requirements which are not job related and consistent with business necessity and safe job performance. Refer to section 3-140 for guidance on investigation of job qualification requirements under sections 402 and 503.

8-170.514 Enclose copies of job descriptions, old and current, which limit jobs by race or sex, or have potential discriminatory requirements, such as height and weight. Also include those which do not match the actual physical or mental requirements to perform the job.

8-170.515 Describe the contractor's hiring and promotional requirements, e.g., a high school education or a minimum height and/or weight requirement. Describe the changes if any, in these requirements since January 1, 1964. Also, describe the contractor's use of employment physical examinations. Refer to section 3-140 for guidance on investigation of use of physical exams under Sections 402 and 503.

8-170.516 Enclose copies of current and past seniority lists and line of progression charts, including a description of the current system and relevant changes during recent years.

8-170.517 Describe how employees obtain transfers or promotions to various jobs, including a description of changes in the system during recent years. Enclose copies of written policies etc. Describe how covered veterans and handicapped individuals are included in the self identification system.

8-170.518 Explain why any concentrations of minorities or women in job areas are not considered to be affected classes.

8-170.519 Provide applicant flow information by race, national origin, sex, year of hire, and rejection. Assure that such information also includes covered veterans and handicapped individuals. Include actual dates of application and rejection, hire dates of nondiscriminatees, and other relevant information where an affected class of rejected job applicants is alleged.

8-170.5110 Describe the steps the contractor has taken to review all job qualification requirements to comply with 41 CFR 60-250.6(c)(1) and (2). Refer to section 3-140.

8-170.5m Tab 13: Collective bargaining agreements. Under separate subtabs:

8-170.5m1 Give name and local union numbers of all unions at the establishment. Describe the kinds of jobs and areas represented by the union.

8-170.5m2 Include copies of current collective bargaining agreements, and any old agreements containing seniority systems, or other provisions which resulted in the assignment or movement of employees on the basis of race or sex.

8-170.5m3 Recommend whether the union's practices should be referred to the Department of Justice or the EEOC for enforcement action.

8-170.5n Tab 14: Other agreements. Under separate subtabs:

8-170.5n1 Provide copies of all conciliation agreements or similar documents. Include a description of the issues resolved, dates, content of agreements, and any remaining unresolved issues.

8-170.5n2 Detail any failures by the contractor to meet previous AAP commitments, e.g., a description of the commitment, how it was violated, and when.

8-170.5o Tab 15: EEO-1 reports. Include past and current reports, where applicable.

8-170.5p Tab 16: Affirmative Action Program. Include a copy of the contractor's current AAP and, where pertinent, copies of past AAPs.

8-170.5q Tab 17: Miscellaneous. Under separate subtabs:

8-170.5q1 Compare census data with utilization in the contractor's various job groups and EEO-1 categories, if not included in the AAP.

8-170.5q2 Report interviews with community organizations such as NAACP, NOW, LULAC, "Mainstream," American Coalition of Citizens with Disabilities, Disabled American Veterans, the American Legion, and others.

8-170.5q3 Include fringe benefit policies, e.g., pension plans, and use of contractor's facilities.

8-170.5q4 Include maternity leave policies.

8-170.5q5 Include any other relevant information.

8-170.6 Processing and approval of enforcement proposals.

8-170.6a Authorities.

8-170.6a1 Except as provided in section 8-170.6a2, all complaint investigations and compliance reviews involving single-establishment contractors or intra-regional contractors in which conciliation is unsuccessful should be transferred to the Regional Solicitor for formal enforcement if no unprecedented or unique issues or remedies are involved.

8-170.6a2 All other complaint investigations and compliance reviews in which conciliation is unsuccessful should be transferred to the Enforcement Coordination Division, NO, for review and a determination as to where responsibility for formal enforcement is to be assigned. All compliance reviews and complaint investigations, including those described in section 8-170. 6a1, which involve high impact contractors or industries, novel and untested issues, or are subject to the WEAL consent decree, should be transmitted to the Enforcement Coordination Division, NO.

8-170.6a3 The Director may refer cases to EEOC or the Department of Justice. Cases in which conciliation fails for which the RO recommends referral to the Department of Justice or EEOC should be transmitted to the Regional Solicitor for legal analysis who, in turn, will submit viable cases to the NO.

8-170.6b The AOD, prior to forwarding enforcement proposals to the ARA should ensure that:

8-170.6b1 Enforcement proposals are supported by the evidence in the case file.

8-170.6b2 Proposals for enforcement, both administrative and judicial, include the information in section 8-170.

8-170.6c Regional Office.

8-170.6c1 The RO shall log enforcement proposals in its correspondence control systems.

8-170.6c2 The DRO shall review enforcement proposals, consulting with the Regional SOL where necessary, and recommend action to the ARA.

8-170.6c3 The ARA, within 20 working days of receipt by the RO, should:

8-170.6c3a Transmit enforcement proposals specified in section 8-170.6a1 and 8-170.6a3 to Regional SOL and forward copies to the Director, OFCCP; or

8-170.6c3b Transmit enforcement proposals in sections 8-170.6a2 to the Director, OFCCP, for further action; or

8-170.6c3c Return insufficient proposals to the AO for appropriate action.

8-170.6d National Office.

8-170.6d1 The Management Support Staff shall log enforcement proposals in the correspondance control system.

8-170.6d2 The Branch of Sanction Review, Enforcement Coordination Division, should:

8-170.6d2a Review proposed judicial enforcement actions and administrative enforcement actions involving inter-regional contractors. Furnish recommendations to Director, OFCCP, normally within 20 working days of receipt.

8-170.6d2b Review enforcement proposals submitted under sections 8-170.6c3a and 8-170.6c3b. Where necessary, recommend action to the Director.

8-170.6e The Director, OFCCP, shall (based on analyses performed by the Branch of Sanction Review) transmit enforcement proposals to SOL, the Department of Justice, or EEOC, or return them to the RO for appropriate action. Referrals to the Department of Justice or to EEOC shall be made only after legal review by SOL, NO.

8-180 Reinstatement of debarred contractor.

8-180.1 Requests for reinstatement will be made in writing to the Director, OFCCP.

8-180.2 The Director, OFCCP shall order a special compliance review. The debarred contractor shall be notified of the time and place of the review. The review should include all, or, where necessary due to the number of facilities, at least a representative sample of, the contractor's facilities.

8-180.3 Except where otherwise provided by the Director, the compliance review procedures required by chapters 2 through 5 are to be followed, with special attention to the deficiencies which caused the debarment. The EOS's findings should be reviewed and concurred in by the RO, and then by the Enforcement Coordination Division, NO.

8-180.4 The contractor must correct all compliance deficiencies prior to reinstatement. A mere showing that the deficiency which gave rise to the debarment has been corrected is insufficient basis for reinstatement.

8-180.5 As a condition of reinstatement, the former contractor must enter into a consent decree detailing all required corrective actions. SOL will negotiate the consent decree, with OFCCP assistance.

8-180.6 The Director, OFCCP shall make a final decision on reinstatement based on the case record, the findings of the compliance review, the corrective action taken, and current willingness and ability to comply with the requirements of the Executive Order and/or Sections 402 and 503. If the Director agrees to reinstate the contractor, he/she shall sign the proposed consent decree.

8-180.7 After the Director and the former contractor sign the consent decree, it shall be transmitted to SOL for filing the consent decree with the administrative law judge, who will retain jurisdiction over the matter including reinstatement of the debarment if the consent decree is violated.

8-190 Conciliation Agreements: Minimum Suggested Remedies. The conciliation remedies and standards in this section represent the minimum which is acceptable for each specified violation. Suggested commitments which may be used in addition to the minimum are also provided.

8-190.1 Purpose. According to a famous legal maxim, "In the whole field of law there is no right without a remedy." No duty is effective without a remedy for failure to perform it, and no right is effective without a remedy for violation of it. A remedy is therefore the means by which "a right is enforced or the violation of a right is prevented, repressed, or compensated" (Black's Law Dictionary, 4th Ed. 1968). The conciliation standards in this section ensure that complete remedies for noncompliance, and for persons injured by it, are uniformly obtained. Conciliation standards define minimum acceptable relief. They do not limit the remedies that may be required to fully resolve specific cases of noncompliance.

8-190.2 Applicability. The EOS should apply these conciliation standards in fashioning, negotiating, approving, and auditing remedies for noncompliance.

8-190.3 Use. The OFCCP's policy is to achieve full compliance with the Executive Order, Section 402 and Section 503. Full compliance requires complete retrospective and prospective remedies for all identified deficiencies.

8-190.3a Retrospective remedies are those necessary to completely eliminate the effects of past noncompliance.

8-190.3b Prospective remedies are those necessary to ensure future compliance.

8-200 Failure to develop and implement an acceptable AAP. Contractors sometimes do not develop and implement AAPs, or do so only after notification of an impending compliance review. In other cases, contractors' AAPs do not represent a good-faith effort to comply with 41 CFR Part 60-2, 60-250.5 and .6 or 60-741.5 and .6.

8-200.1 Minimum remedy.

8-200.1a Retrospective. The contractor must set remedial goals or other commitments sufficient to completely eliminate the effects of its noncompliance between the date it became subject to 41 CFR Parts 60-2, 60-250 or 60-741, and the date it implemented an acceptable AAP.

8-200.1b Prospective. The contractor must develop and implement an acceptable AAP. The AAP (or required amendments) must be developed, and referenced in a conciliation agreement before the show cause notice is rescinded. Progress reports on the contractor's compliance status also are required.

8-200.2 Suggested commitments. Where goals were not set or were not acceptable, the retrospective remedy can be "catch-up" (remedial) goals. The EOS should establish such goals by, for example:

8-200.2a Determining the date the contractor became subject to 41 CFR Part 60-2.

8-200.2b Determining, for each job group, the goals for minorities and women that would have been in effect had the contractor complied with 41 CFR Part 60-2.

8-200.2c Determining, for each year the contractor was covered by 41 CFR Part 60-2, the total numbers of placements into each job group.

8-200.2d Multiplying, for each job group for each year, the total number of placements by the percentage goals derived above in section 8-200.2b.

8-200.2e Subtracting the number of minorities and women placed and retained in each job group during each year from the products derived above. The resulting figures, totaled for each job group, equal the required "catch-up" goals. The contractor will be required to make good-faith efforts to attain the "catch-up" goals, in addition to its usual goals, over a specific and reasonable period. Where "catch-up" goals are substantial and the contractor's placement opportunities are limited, the "catch-up" goals may require several years to achieve.

8-210 Failure to make a good-faith effort to meet goals or other commitments.

8-210.1 Minimum remedy

8-210.1a Retrospective. Same as specified in section 8-200.1a

8-210.1b Prospective. The contractor must do the following:

8-210.1b1 Establish specific procedures which constitute good-faith efforts to meet goals or other commitments. Refer to sections 2-90 and 2-100.

8-210.1b2 Eliminate any practice which interferes with meeting goals or other commitments.

8-210.1b3 Establish an internal audit and corrective action program which will ensure that a good-faith effort is made to meet goals or other commitments.

8-210.1b4 Submit progress reports sufficient for OFCCP to adequately monitor the attainment of goals or other commitments.

8-210.2 Suggested commitments.

8-210.2a See the provisions of 41 CFR 60-2.20 thru 60-2.26, where applicable.

8-210.2b The contractor shall contact minority, women's, veterans and handicapped persons organizations for employment referrals.

8-210.2c The contractor shall advertise vacancies in newspapers, and on radio and television stations which have a special appeal for minorities and/or women.

8-210.2d The contractor shall establish an affirmative action file of minority and female applicants for job groups in which it is underutilized. This file will contain the applications of all minorities and women who are qualified for any position with the company, and will be consulted when vacancies occur.

8-210.2e The contractor shall develop and submit, and shall make available to employees and applicants, as applicable, position descriptions which describe the duties performed under each job title and the minimum qualifications required. Minimum qualifications shall not exceed those presently in existence, and are to be related to the performance of the job. In addition, minimum qualifications, even if they reflect current "requirements," shall not be allowable where they result in disparate treatment.

8-210.2f The contractor shall adopt only job-related procedures for evaluating applicants for employment and for the assignment, transfer, or promotion of employees. Where required by 41 CFR Part 60-3, the contractor shall validate the procedures.

8-210.2g The contractor shall ensure that job or department residency requirements, and promotion-from-within requirements are justified by business necessity. [Note: This commitment will normally only be applicable when an affected class exists.]

8-210.2h The contractor shall identify minority and female employees who are qualified for promotional and/or training opportunities and, having identified them, provide counsel as to the opportunities available.

8-220 Affected classes of rejected applicants and incumbent employees. Refer to chapter 7 for minimum remedies required for these affected classes.

8-230 Adverse impacts resulting from unvalidated employee selection procedures. Refer to 41 CFR Part 60-3. 3(A), 6(A) and 6(B).

8-230.1 Minimum remedy.

8-230.1a Retrospective. Qualified or qualifiable applicants or employees rejected for employment, assignment, transfer or promotion due to unvalidated employee selection procedures adversely affecting them are affected classes. Minimum remedies for such persons will be the same as those specified in chapter 7.

8-230.1b Prospective. Refer to 41 CFR 60-3.3, 6(A) and 6(B).

8-240 Back pay for individual victims of discrimination. This section prescribes the required procedure for computing back pay for victims of individual acts of discrimination. (Refer to section 7-150 for the requirements which apply to computing back pay for larger classes of discriminatees).

8-240.1 Minimum remedy

8-240.1a Back pay must be sufficient to reimburse discriminatees for all economic losses attributable to discrimination.

8-240.1b Individual acts of discrimination often may be "willful violations" (refer to section 1-60.154). In such event. the 3-year back pay recovery period should normally be applied. Refer to section 7-150.2c.

8-240.1c In computing back pay, the EOS should normally:

8-240.1c1 Identify the date from which back pay should be computed. This will be the most recent of two dates:

8-240.1c1a The date the act of discrimination occurred -- that is, the date the discriminatee would have been hired, transferred, assigned, or promoted if discrimination had not occurred.

8-240.1c1b A date 2 years (or 3 years, if a willful violation) prior to the date on which the discriminatee's written complaint was received by OFCCP. If no complaint was filed, substitute the date on which the contractor was notified in writing of the finding of discrimination.

8-240.1c2 Determine the regular pay, overtime, incentive pay, cost-of-living increases, and promotions which the discriminatee would have received, if there had been no discrimination, following the date identified above. The EOS should base this determination on:

8-240.1c2a The amounts of regular pay, overtime worked, incentive payments, cost-of-living increases received, and the base wages or salaries earned by individuals with comparable seniority who are employed in the job title(s) from which the discriminatee was excluded. These figures will be based on records of actual payments, such as W-2 forms. (The seniority of discriminatees will be computed as though the act of discrimination did not occur, e.g., the seniority date for rejected applicants would be the date on which they should have been hired; while for incumbent employees, it would normally be the date of hire.)

8-240.1c2b Promotions received by individuals with comparable seniority employed in the job title from which the discriminatee was excluded.

8-240.1c2c Collective bargaining agreements and wage or salary schedules, where appropriate.

8-240.1c3 Compute, on the basis of the above analysis, the total compensation that the discriminatee would have received, if there had been no discrimination. The period for which this amount will be computed will begin on the date identified in section 8-240.1c1 and end on the date the discriminatee was employed in his or her "rightful place." If the discriminatee has not yet achieved his/her "rightful place" as of the date of settlement, back pay should cover the time period up to the date of settlement and, in addition, the discriminatee should receive front pay covering the period from the date of settlement to the date on which his/her rightful place will be attained. Refer to section 8-240.1c5. "Rightful place" is the job title and salary or wage grade that the discriminatee would now occupy if there had been no discrimination.

8-240.1c4 Subtract earnings or other income received by the discriminatee during the period identified above. The resulting figure, plus interest computed at the prevailing legal rate, will equal the amount of back pay owed to the discriminatee. Federal and State income tax, legal deductions, such as social security and worker's compensation, may be subtracted from the amount actually received by the discriminatee if the employer makes these payments to the appropriate Federal and State agencies.

8-240.1c5 Where a vacancy in the discriminatee's "rightful place" is not immediately available or, if the discriminatee lacks valid skill qualifications for the "rightful place" position which can only be acquired through further training or development, and the discriminatee is placed in a lower paying job title, "front pay" (equal to the difference between the wage rate for the job title and that for the "rightful place") will normally be provided until his/her "rightful place" is attained.

8-250 Hiring discrimination. The EOS should apply the remedies required by this section where it is found that individual applicants were not hired due to discrimination. Refer to chapter 7 for the remedies which are required where larger classes of rejected applicants are identified.

8-250.1 Minimum remedy.

8-250.1a Retrospective. The contractor shall provide the following to discriminatees:

8-250.1a1 Backpay, computed as required by section 8-240.

8-250.1a2 Retroactive ("constructive") seniority and fringe benefits, computed from the date the discriminatee would have been hired had there been no discrimination. This date is normally when the first vacancy in the relevant job title was filled after the discriminatee applied for employment. The contractor should provide the discriminatee, upon hire, full retroactive seniority to be used for retirement and in competing for promotion, hours of work, and other terms and conditions of employment. The contractor will make those contributions which normally would have been made to the discriminatee's group life insurance plan, company savings plan, retirement or pension plan. and shall restore to the discriminatee all other fringe benefits which would have accrued if there had been no discrimination.

8-250.1b Prospective.

8-250.1b1 Hire of discriminatee. Based on the analysis in section 8-240.1c2, the EOS should determine the job title and wage or salary rate which the discriminatee would currently hold if there had been no discrimination (his/her "rightful place"). If possible, the discriminatee will be given the first available vacancy in that job title, or a job title affording comparable pay, duties, benefits, and opportunities which is acceptable to the discriminatee. Any training necessary to qualify the discriminatee for his or her "rightful place" will be provided on an accelerated basis following hire.

8-250.1b2 Elimination of discriminatory practices. The contractor shall discontinue the specified practices which resulted in the discrimination. The contractor shall also discontinue any other discriminatory practices such as 1) "word of mouth" recruitment resulting in a disproportionately small number of minority, female, covered veteran or handicapped applicants, 2) contacts with personnel agencies which refer applicants on a discriminatory basis, and 3) employee selection procedures or requirements which are not job related and have an adverse effect on minority, female, covered veteran or handicapped applicants.

8-250.1b3 The contractor shall adopt job-related procedures for the evaluation of applicants for employment and for the assignment, transfer, or promotion of employees.

8-250.1b4 The contractor shall develop and implement an AAP meeting the requirements of 41 CFR Parts 60-2, 60-250 and 60-741. Special attention will be given to establishing result-oriented recruitment procedures to prevent future discrimination. In the case of a construction contractor, the contractor shall develop and implement procedures consistent with 41 CFR Part 60-4.

8-250.2 Suggested commitments. The contractor shall:

8-250.2a Establish an affirmative action file. Refer to section 8-210.2d.

8-250.2b Develop and submit position descriptions. Refer to section 8-210.2e.

8-250.2c Follow the provisions of 41 CFR 60-2.20 thru 2.26, 60-4.3 and .4, 60-250.5 and .6, and 60-741.5 and .6.

8-260 Discrimination in assignment, transfer, or promotion. The requirements of this section apply where incumbent employees have been subjected to assignment, transfer, or promotion discrimination. Refer to chapter 7 for the remedies required where larger classes of incumbent employees are identified.

8-260.1 Minimum remedy.

8-260.1a Retrospective. The contractor shall provide the following to discriminatees:

8-260.1a1 Back pay computed in the manner required by section 8-240.

8-260.1a2 Fringe benefits computed from the date the discriminatee would have been transferred, assigned, or promoted if there had been no discrimination. If a seniority system is applicable to the new job, the individual must be treated for all purposes for which seniority is a factor as if he/she obtained the job on the date of the discrimination. Adjustments in fringe benefits will be the same as required in section 8-250.1a2.

8-260.1b Prospective. The contractor shall:

8-260.1b1 Assign, transfer, or promote the discriminatee to the next vacancy, and provide front pay until the discriminatee reaches his/her "rightful place." Provide training where necessary. Refer to section 8-250.1b1.

8-260.1b2 Eliminate specific factors which resulted in the discriminatory act.

8-260.1b3 Develop and disseminate nondiscriminatory policies and procedures regarding assignments, transfer, and promotions.

8-260.1b4 Develop and implement an AAP meeting the requirements of 41 CFR Parts 60-2, 60-250, and 60-741. Specific attention will be devoted to identifying and promoting qualified or qualifiable women, minority, handicapped and covered veteran employees. In the case of a construction contractor, the contractor shall develop and implement procedures consistent with 41 CFR Part 60-4.

8-260.2 Suggested commitments. Refer to section 8-250.2.

8-270 Discrimination in discharge, suspension, and disciplinary actions.

8-270.1 Minimum remedy.

8-270.1a Retrospective. The contractor shall do the following for discriminatees:

8-270.1a1 Provide back pay. Refer to section 8-240.

8-270.1a2 Provide all seniority and fringe benefits which would have been received but for the discharge, computed from the date the discharge or suspension occurred, in addition to whatever seniority the discriminatee had accrued up to the date of his/her discharge or suspension. Adjustments in fringe benefits will be the same as required in section 8-250.1a2.

8-270.1a3 Eliminate from personnel records all documents and entries related to the circumstances of the discriminatory discharge or disciplinary action. Ensure that the discriminatee is not penalized in future consideration for promotion, transfer, or conditions of employment. The contractor will not give information pertaining to the discharge or disciplinary action, either directly or indirectly, to other employers or potential employers.

8-270.1b Prospective.

8-270.1b1 Based on the analysis in section 8-240.1c2, the EOS should determine the job title and wage or salary rate that the discriminatee would currently hold if there were no discrimination. The discriminatee will be immediately placed in that job title and pay rate, or in one comparable in pay, duties, benefits, and opportunities which is acceptable to the discriminatee. If a job affording comparable pay is not immediately available, "front pay" should be provided the discriminatee until his or her "rightful place" is attained. Any training necessary to qualify the discriminatee for his or her "rightful place" will be provided on an accelerated basis after reinstatement.

8-270.1b2 The contractor shall eliminate specific factors which resulted in discriminatory discharge or disciplinary action.

8-270.1b3 The contractor shall be required periodically to report to OFCCP discharges and disciplinary actions, including name, nature of action, race, sex, and other relevant information.

8-270.1b4 The contractor shall develop and implement an AAP meeting the requirements of 41 CFR Parts 60-2, 60-250 and 60-741. Specific attention will be given to establishing a procedure to ensure fairness in discharge and other disciplinary actions. In the case of a construction contractor, the contractor shall develop and implement procedures consistent with 41 CFR Part 60-4.

8-270.2 Suggested commitments.

8-270.2a The contractor will not discharge, discipline, lay off, or downgrade minority or female, handicapped or covered veteran employees where nonminority or male, or nonhandicapped or noncovered veteran employees would not have been subjected to such action. The contractor will make the following factual determinations when minority, female, handicapped or covered veteran employees are subjected to the aforementioned actions:

8-270.2a1 Whether sufficient cause for the action exists;

8-270.2a2 Whether applicable provisions of the collective bargaining agreement were complied with;

8-270.2a3 Whether the employee's allegedly improper conduct was in any way caused by misconduct of supervisory or other personnel;

8-270.2a4 Whether male, nonminority, nonhandicapped or nonveteran employees have been disciplined for similar conduct; and, if so, 8-270.2a5 Whether the form of discipline used was the same or similar;

8-270.2a6 Whether mitigating circumstances or the employee's previous record indicate that the proposed penalty is overly harsh.

8-270.2b When a minority or female, handicapped individual or covered veteran has been downgraded, the contractor agrees that an EEO officer authorized to take or recommend corrective action to the CEO will examine the action to determine whether it was warranted by the facts.

8-270.2c The contractor agrees that when a woman, minority, handicapped or covered veteran employee has been downgraded due to lack of qualifications which he/she has not been given the opportunity to attain, he/she will be afforded additional training. Following successful completion of such training, the employee will be given first preference for any future openings in the former job. In addition, where the training time is relatively short, it may be appropriate to hold the job open until the training is completed.

8-280 Discrimination in layoff or recall.

8-280.1 Minimum remedy.

8-280.1a Retrospective. Refer to section 8-270.1a.

8-280.1b Prospective. The contractor shall do the following:

8-280.1b1 Immediately recall the discriminatee to his or her "rightful place." Refer to section 8-270.1b1.

8-280.1b2 Eliminate specific causes of discriminatory layoffs and correct any factors which may result in future discriminatory layoffs.

8-280.1b3 Submit reports to OFCCP on future layoffs and recalls (specifying, as relevant, name, race, sex, covered veteran status, handicap, and other relevant information).

8-280.1b4 Develop and implement an AAP meeting the requirements of 41 CFR Parts 60-2, 60-250, and 60-741. Specific attention will be given to establishing procedures to ensure nondiscrimination in future layoffs. In the case of a construction contractor, the contractor shall develop and implement procedures consistent with 41 CFR Part 60-4.

8-280.2 Suggested commitments.

8-280.2a The contractor will not lay off minority or female, handicapped or covered veteran employees where nonminority, male, nonhandicapped or noncovered veteran employees would not have been subjected to such action.

8-280.2b The contractor agrees that when a minority, female, covered veteran or handicapped employee is laid off, an EEO officer authorized to take or to recommend action to the CEO will determine whether the layoff was made in accordance with a provision of the collective bargaining agreement.

8-290 Failure to reinstate employees to original positions or positions of like status and pay following maternity leave. Refer to sections 2-250.2h and 2-250.3. Persons eligible for relief include: Employees denied reinstatement to a position; employees who did not return to work because they were offered reinstatement of unlike status and pay. Refer to section 2-250.2h for definition of "like status." Employees who accepted reinstatement to positions affording lower pay, benefits, or fewer opportunities for advancement, or whose reinstatement to a position of like status and pay was delayed; and terminated employees who were denied maternity leave because of insufficient seniority.

8-290.1 Minimum remedy.

8-290.1a Retrospective. The contractor shall provide the following to discriminatees:

8-290.1a1 Back pay. Refer to section 8-240.

8-290.1a2 Retroactive seniority and fringe benefits. Refer to section 8-270.1a2.

8-290.1b Prospective. The contractor shall do the following:

8-290.1b1 Reinstate laid off employees. Refer to section 8-270.1b1.

8-290.1b2 Develop and implement a maternity leave-of-absence policy in compliance with 41 CFR 60-20.3(g). Refer to section 2-250.2h.

8-300 Discrimination in decisions regarding overseas employment made in the United States.

8-300.1 Minimum remedy.

8-300.1a Retrospective. Where hiring discrimination is involved, the remedies specified in section 8-250.1a will be obtained. Where discrimination in assignment, transfer, or promotion is involved, all remedies specified in section 8-260.1a will be obtained.

8-300.1b The contractor shall establish realistic, and specific goals and timetables for the hiring, assignment, transfer, and promotion of persons of the affected race, color, sex, national origin, or religion into overseas employment positions from which members of the group had been excluded. Such goals must be sufficient to correct the present effects of past discrimination, and to prevent future discrimination.

8-310 Discrimination in benefits.

8-310.1 Minimum remedy.

8-310.1a Retrospective. The contractor shall:

8-310.1a1 Adjust the discriminatee's benefit status to that which it would be, absent discrimination.

8-310.1a2 Provide monetary relief to compensate the discriminatee for any financial losses resulting from the contractor's noncompliance.

8-310.1b Prospective. The contractor shall:

8-310.1b1 Equalize retirement ages for men and women.

8-310.1b2 Equalize medical standards that men and women must meet regarding medical disabilities.

8-310.1b3 Entitle either spouse to survivor benefits.

8-310.1b4 Ensure that sex or marital status is not to affect eligibility for employee or dependent's benefits under insurance plans.

8-320 Discrimination in opportunities for overtime.

8-320.1 Minimum remedy.

8-320.1a Retrospective. The contractor shall provide back pay to discriminatees at the appropriate premium rate for all overtime denied; or, if it is agreeable to the discriminatee, the contractor may provide the discriminatee opportunity to "make up" lost overtime.

8-320.1b Prospective. The contractor shall:

8-320.1b1 Eliminate specific factors which caused the discrepancy in overtime and correct any factors which may result in future discriminatory assignments of overtime.

8-320.1b2 Where equal distribution of overtime to both sexes would allegedly conflict with State "protective" legislation, the contractor shall comply with 41 CFR 60-20.3(f) and 60-2.31.

8-320.1b3 Assign overtime so that it does not conflict with the religious observances of employees.

8-330 Harrassment and intimidation.

8-330.1 Minimum remedy.

8-330.1a Retrospective.

8-330.1a1 The contractor shall be required to discipline employees guilty of harassment or intimidation, according to the severity of their offenses, and to take appropriate disciplinary action against any supervisors who condone intimidation or harassment.

8-330.1a2 Where employees have resigned due to harassment or intimidation, all remedies required by section 8-270.1a will be required.

8-330.1b Prospective.

8-330.1b1 Where employees have resigned due to harassment or intimidation, all remedies in section 8-270.1b will be required.

8-330.1b2 The contractor shall develop, disseminate, and implement a policy forbidding intimidation and harassment and requiring disciplinary action against violators. It must be clear that violations of the policy will be grounds for disciplinary action up to and including discharge.

8-330.1b3 The contractor shall provide reports to OFCCP regarding future resignations and terminations, giving reasons for separation, name, race, handicap or covered veteran status, sex, and other relevant information.

8-340 Retaliation.

8-340.1 Minimum remedy.

8-340.1a Retrospective.

8-340.1a1 The contractor shall give appropriate individual relief based on the form of retaliation: discharge, suspension, or disciplinary action (section 8-270.1a), denial of promotion (section 8-260.1a), or harassment or intimidation (section 8-330.1a).

8-340.1a2 Where retaliation was an adverse personnel action, the contractor shall purge personnel records and take other corrective actions specified in section 8-270.1a3.

8-340.1a3 The contractor shall discipline supervisors or employees who committed or condoned acts of retaliation, according to the severity of their offenses.

8-340.1b Prospective. The contractor shall:

8-340.1b1 Give individual relief appropriate to the form of retaliation. Refer to sections 8-260.1b, and 9-330.1b.

8-340.1b2 Cease discriminating against employees who exercise their rights under the Executive Order, Sections 402 or 503, or who assist in any review, proceeding, or other activity under the Executive Order, Section 402 or 503.

8-340.1b3 Eliminate specific factors which allowed the acts of retaliation to occur, and correct any factors which might permit their future occurrence.

8-340.1b4 Develop, disseminate, and implement a clear and direct policy forbidding retaliation and other violations of the Executive Order, Sections 402 or 503, and provide for disciplinary action against violators, up to and including dismissal.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. John R. Volt
President
Nowhere Furniture, Inc.
Nowhere, Pennsylvania 15219

Dear Mr. Volt:

On (date) , we concluded our review of your firm's equal employment opportunity policies and practices. The findings reflect that the (name of firm) is not in compliance with the requirements of Executive Order 11246, as amended, and its implementing regulations. Consequently, we are issuing this notice to show cause why enforcement proceedings under Sections 208 and 209 (a) of Executive Order 11246, as amended, should not be initiated.

The deficiencies noted during the review are listed in the enclosure. You are required to remedy them in accordance with the principles for corrective action contained in the enclosure within 30 days of your receipt of this notice. Your commitments must be detailed in a written conciliation agreement with this office. If you fail to do so, and are unable to show good cause for this failure through the written presentation of opposing facts and evidence within the 30-day period, we shall recommend that either administrative or judicial enforcement proceedings be initiated, in accordance with 41 CFR 60-1.26. In those administrative or judicial enforcement proceedings, you would have an opportunity to request a hearing before any sanction is imposed.

It is our sincere desire to avoid enforcement proceedings, if at all possible. Therefore, it is suggested that you meet with (name of EOS) , Equal Opportunity Specialist, at (time) on (date) , at this office, to conciliate a resolution of these deficiencies. Please contact (name of EOS) , or his/her supervisor, (name of supervisor) on telephone number (phone number) to confirm this meeting or to arrange another mutually acceptable time or date. While additional conferences will not result in an extension of the 30-day period, they may expedite your firm's attainment of a satisfactory compliance status.

Sincerely,

Enclosure

Figure 8-1, Basic show cause notice format (Supply and Service)

Nowhere Furniture, Inc.
Nowhere, Pennsylvania 15219

Deficiencies and Corrective Action Necessary to Achieve Compliance

1. Deficiency. Nowhere Furniture, Inc.'s AAP contains no workforce analysis (41 CFR 60-2.11(a)).

Corrective action. Develop, and include in the AAP, a workforce analysis meeting the requirements of 41 CFR 60-2.11(a).

2. Deficiency. Job groups have not been established. The utilization analysis contained in the AAP is accomplished by EEO-1 category rather than by job group (41 CFR 60-2.11(b)).

Corrective action. Based upon the work force analysis, design job groups (as defined in 41 CFR 60-2.11(b)). Accomplish utilization analysis on the basis of the identified job groups.

3. Deficiency. All eight factors have not been considered in determining the availability of minorities and women. Availability estimates, in every instance, are based solely upon the availabilty of minorities/women who are presently employed in job categories in the local labor force, "requisite skills" figure (41 CFR 60-2.11(b)).

Corrective action. For each identified job group, separately estimate the availability of minorities and women. Estimates must be based upon a consideration of all eight availability factors identified in 41 CFR 60-2.11(b). A utilization analysis must be conducted, followed by goal setting, where appropriate. Refer to 41 CFR 60-2.11 and 2.12. Give the reason(s) in detail for failure to consider each of the eight factors which you omitted. All positions at your establishment require skills which are developed following employment, either through "on-the-job" training or service in lower level positions in the establishment. Estimates for each job group should therefore reflect the availability of minorities and women who are capable of being trained to perform the jobs in the group.

4. Deficiency. Nowhere Furniture, Inc. does not reinstate employees returning from maternity leaves of absence to their original positions, or to positions of like status and pay (41 CFR 60-20.3(g)(1) and (2)).

Corrective Action.

a. Modify Nowhere Furniture, Inc.'s maternity leave policy to provide for reinstatement of all employees returning from maternity leaves of absence to their original positions or to positions of like status and pay, with all appropriate accrued seniority.

Figure 8-2 (part 1 of 2) Format for enclosure to basic show cause notice (Supply and Service)

b. Identify persons who were not reinstated to original positions or positions of like status and pay following maternity leaves of absence. Provide relief sufficient to: (1) restore those persons to the positions which they would now hold had they been reinstated to their original positions or positions of like status and pay; (2) compensate those persons for income lost due to failure to reinstate them to original positions or to positions of like status and pay. In addition, credit accrued seniority, as appropriate.

Figure 8-2 (part 2 of 2) Format for enclosure to basic show cause notice (Supply and Service)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Sally Smith
President
Nowhere Widget Works
Nowhere, Pennsylvania 15219

Dear Ms. Smith:

We have reviewed the Affirmative Action Program (AAP) and supporting documentation which your firm submitted for desk audit. The results of this review indicate that your AAP does not meet the requirements of 41 CFR Part 60-2. Consequently, we are issuing this notice to show cause why enforcement proceedings under Sections 208 and 209(a) of Executive Order 11246, as amended, should not be initiated.

The deficiencies which have been identified to date in your firm's compliance with the requirements of Executive Order 11246, as amended, and its implementing regulations are specified in the enclosure. You are required to correct them within 30 days of your receipt of this notice. If you fail to do so, and are unable to show good cause for this failure within the 30-day period, we shall recommend that either administrative or judicial enforcement proceedings be initiated in accordance with 41 CFR 60-1.26. In those administrative or judicial enforcement proceedings, you would have an opportunity to request a hearing before any sanction is imposed.

The correction of these deficiencies does not preclude the identification of further deficiencies based either upon a finding during the desk audit or subsequent onsite review, that your AAP does not meet the requirements of 41 CFR Part 60-2, or that your firm is not in compliance or has failed to comply in the past with the Executive Order and its implementing regulations. This show cause notice shall not be withdrawn until all deficiencies cited in this notice or identified during the course of the compliance review have been fully and satisfactorily resolved. Where appropriate, such resolution must be through a written conciliation agreement.

It is our sincere desire to avoid enforcement proceedings, if at all possible, Therefore, it is suggested that you meet with (name of EOS), Equal Opportunity Specialist, at (time) on (date) at this office, to conciliate a resolution of these deficiencies. Please contact (name of EOS) or his/her supervisor (name of supervisor) on telephone number (telephone number) to confirm this meeting or to arrange another mutually acceptable time or date.

Sincerely,

Enclosure

Figure 8-3 Basic show cause notice format for contractors who submit seriously deficient AAPs for desk audit.

best copy available

Nowhere Widget Works
Nowhere Pennsylvania 15219

Deficiency. The AAP submitted by Nowhere Widget Works does not contain:

a. A workforce analysis as required by 41 CFR 60-2.11(a).

b. Availability and utilization analyses as required by 41 CFR 60-2.11(b).

Corrective action. Develop, implement, and submit to this office within 30 days of your receipt of this notice, workforce, availability and utilization analyses meeting the requirements of 41 CFR 60-2.11. Develop and implement remedial action commitments sufficient to eliminate the effects of previous failure to comply with that provision.

Figure 8-4 Format for enclosure to basic show cause notice issued to contractors who submit seriously deficient AAPs for desk audit.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. C. C. Contractor
President
Nowhere Widget Works
Nowhere, Pennsylvania 15219

Dear Mr. Contractor:

Under the requirements of 41 CFR 60-1.40, you were requested by letter dated (date), to submit a copy of your Affirmative Action Program (AAP) and supporting documentation to this office for desk audit within 30 days. To date, your AAP has not been received. Consequently, we are issuing this notice to show cause why enforcement proceedings under Sections 208 and 209 (a) of Executive Order 11246, as amended, should not be initiated due to your firm's failure to submit an AAP.

You are required to submit an AAP and specified supporting documentation within 30 days of your receipt of this notice, or we shall recommend that either administrative or judicial enforcement proceedings be initiated in accordance with 41 CFR 60-1.26. In those administrative or judicial enforcement proceedings you would have an opportunity to request a hearing before any sanction is imposed.

The submission of an AAP and supporting documentation does not preclude the identification of further deficiencies based either upon a finding during the desk audit or subsequent onsite review, that your AAP does not meet the requirements of 41 CFR Part 60-2, or that your firm is not in compliance or has failed to comply in the past with the requirements of the Executive Order and its implementing regulations. We shall not withdraw this show cause notice until all deficiencies cited in this notice or identified during the course of the desk audit and compliance review have been fully and satisfactorily resolved in a written conciliation agreement.

It is our sincere desire to avoid enforcement proceedings if at all possible, Therefore, it is suggested that you meet with (name of EOS), Equal Opportunity Specialist, at (time) on (date) at this office, to conciliate a resolution of these deficiencies. Please contact (name of EOS) or his/her supervisor (name of supervisor) on telephone number (telephone number) to confirm this meeting or to arrange another mutually acceptable time or date.

Sincerely,

(AOD)

Figure 8-5 Basic show cause notice format for contractors who fail to submit AAPs for desk audit.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Sally Smith
President
Nowhere Widget Works
Nowhere, Pennsylvania 15219

Dear Ms. Smith:

By our letter dated (date), we issued your firm a notice to show cause, enumerating specified deficiencies in your compliance with the requirements of 41 CFR Part 60-2. A subsequent review of your firm's equal employment opportunity policies and practices was concluded by this office on (date). The findings reflect that your firm is not in compliance with additional requirements of Executive Order 11246, as amended, and its implementing regulations. Consequently, we are issuing this amended notice to show cause why enforcement proceedings under Sections 208 and 209(a) of the Executive Order should not be initiated.

The deficiencies which have been identified in your firm's compliance are listed in the enclosure. You are required to remedy them in accordance with the principles for corrective action contained in the enclosure within 30 days of your receipt of this notice. Your corrective action commitments should be detailed in a written conciliation agreement with this office. If you fail to do so, and are unable to show good cause for this failure through the written presentation of opposing facts and evidence within the 30-day period, we shall recommend that either administrative or judicial enforcement proceedings be initiated in accordance with 41 CFR 60-1.26. In those administrative or judicial enforcement proceedings you would have an opportunity to request a hearing before any sanction is imposed.

It is in our mutual interest to avoid enforcement proceedings, if at all possible. Therefore, it is suggested that you meet with (name of EOS), Equal Opportunity Specialist, at (time) on (date) at this office, to conciliate a resolution of these deficiencies. Please contact (name of EOS) or his/her supervisor (name of supervisor) at (telephone number) to confirm this meeting or to arrange another mutually acceptable time or date. While additional conferences will not result in an extension of the 30-day period, they may expedite your firm's attainment of a satisfactory compliance status.

Sincerely,

(ARA)

Enclosure

Figure 8-6 Basic amended show cause notice format.

Nowhere Widget Works
Nowhere, Pennsylvania 15219

1. Deficiency. The AAP submitted by Nowhere Widget Works does not contain:

a. A workforce analysis as required by 41 CFR 60-2.11(a).

b. Availability and utilization analyses as required by 41 CFR 60-2.11(b).

Upon receipt of these items on ____(date)____, a desk audit of Nowhere Widget Works AAP was conducted. This audit revealed the following deficiencies:

a. Job groups have not been established. The utilization analysis contained in the AAP was accomplished by EEO-1 categories rather than by job groups (41 CFR 60-2.11(b)).

b. All eight factors have not been considered in determining the availability of minorities and women. Availability estimates, in every instance, are based solely upon the availability of minorities and women who are at present employed in job categories in the local labor force (requisite skills figures) (41 CFR 60-2.11(b)).

c. Due to the deficiencies cited in a and b, above, the goals set forth in Nowhere Widget Works' AAP do not meet the requirements of 41 CFR 60-2.12.

d. Action-oriented programs set forth in the AAP are inadequate to eliminate problems and to achieve acceptable AAP goals and objectives, 41 CFR 60-2.13(b).

Corrective action. All required corrective action must be included in Nowhere Widget Works' AAP and detailed or referenced in a conciliation agreement concluded with this office:

a. Include the work force analysis submitted on (date), in the AAP.

b. Based upon the work force analysis, develop and include in the AAP job groups as defined in 41 CFR 60-2.11(b). Accomplish utilization analysis on the basis of identified job groups.

c. For each identified job group, separately estimate the availability of minorities and women. Estimates must be based upon a consideration of all eight availability factors identified in 41 CFR 60-2.11(b). Give the reason(s) in detail for failure to consider each of the eight factors which you omitted. All positions at your establishment require skills which are developed following employment, either through "on-the-job" training or service in lower level positions in the establishment. Estimates for each job group should therefore reflect the availability of minorities and women who are capable of being trained to perform the jobs in the group.

Figure 8-7 (Part 1 of 2) Enclosure format for amended show cause notice.

d. Based upon the corrective actions specified in b and c, above, develop acceptable goals for minorities and women for each job group, meeting the requirements of 41 CFR 60-2.12.

e. Develop action-oriented programs meeting the requirements of 41 CFR 60-2.13(f) which are sufficient to attain the goals and objectives of Nowhere Widget Works' AAP; refer to 41 CFR 60-2.24 for guidance.

f. Develop and implement remedial commitments sufficient to eliminate the effects of the Nowhere Widget Works' previous noncompliance with 41 CFR Part 60-2.

2. Deficiency. Nowhere Widget Works does not reinstate employees returning from maternity leaves of absence to their original positions, or to positions of like status and pay (41 CFR 60-20.3(g)(1) and (2)).

Corrective action.

a. Modify Nowhere Widget Works' maternity leave policy to provide for reinstatment of all employees returning from maternity leaves of absence to their original positions, or to positions of like status and pay, with all appropriate accrued seniority.

b. Identify persons who were not reinstated to original positions or to positions of like status and pay following maternity leaves of absence. Provide relief sufficient to: (1) restore such persons to the positions which they would now hold had they been reinstated to their original positions or positions of like status and pay; (2) compensate such persons for income lost due to failure to reinstate them to original positions or to positions of like status and pay. In addition, credit accrued seniority, as appropriate.

Figure 8-7 (Part 2 of 2). Enclosure format for amended show cause notice.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. John Scott
President
B & V Construction Company
Somewhere, Pennsylvania 16543

Dear Mr. Scott:

Under the Equal Employment Opportunity Clause of your Federal contract, your firm agreed to comply with the provisions of Executive Order 11246, as amended, and its implementing regulations. The applicable regulations, 41 CFR 60-1.4 and 41 CFR Part 60-4 require contractors to maintain employment and related records and furnish the information and reports upon request. You are required to submit the Monthly Employment Utilization Report (CC 257), an initial listing of all federally funded or assisted contracts within the geographical area described in the solicitation, and subsequent monthly updates of the listing. However, we did not receive the Employment Utilization Report and/or supplemental listing for the months of ______________________________. Consequently, we are issuing this 30-day notice to show cause why enforcement proceedings under Sections 208 and 209(a) of Executive Order 11246, as amended, should not be initiated.

You are required to correct this deficiency within 30 days of your receipt of this notice. If you fail to do so and are unable to show good cause for this failure within the 30 day period, we shall recommend that administrative enforcement proceedings be initiated in accordance with 41 CFR 60-1.26. In those administrative enforcement proceedings, you would have an opportunity to request a hearing before any sanction is imposed.

This show cause notice shall not be withdrawn until the deficiency, failure to submit the required reports, has been fully and satisfactorily resolved in a written conciliation agreement.

It is our sincere desire to avoid enforcement proceedings if at all possible. Therefore, it is suggested that you meet with (name of EOS), Equal Opportunity Specialist, at (time) on (date) at this office, to conciliate a resolution of these deficiencies. Please contact (name of EOS) or his/her supervisor(name of supervisor) on telephone number (telephone number) to confirm this meeting or to arrange another mutually acceptable time or date.

Sincerely,

Figure 8-8 Basic show cause notice format (construction) for failure to submit required reports.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. John Scott
President
B & V Construction Company
450 Newton Avenue
Somewhere, Pennsylvania 16543

Dear Mr. Scott:

We completed the review of your company's equal opportunity policies and practices on (date). It covered your aggregate onsite construction workforce in the (Hometime Plan Area) (SMSA) or (Economic Area). The findings reflect that the (name of company) is not in compliance with the requirements of Executive Order 11246, as amended, and its implementing regulations. Consequently, we are issuing this 30-day notice to show cause why enforcement proceedings under Sections 208 and 209(a) of the Executive Order should not be initiated.

The deficiencies noted during the review are listed in the enclosure. You are required to remedy them in accordance with the principles for corrective action contained in the enclosure within 30 days of your receipt of this notice. Your commitments should be detailed in a written conciliation agreement with this office. If you fail to do so, and are unable to show good cause for your failure through the written presentation of opposing facts and evidence within the 30-day period, we shall recommend that either administrative or judicial enforcement proceedings be initiated in accordance with 41 CFR 60-1.26. In those administrative or judicial enforcement proceedings you would have an opportunity to request a hearing before any sanction is imposed.

It is in our mutual interest to avoid enforcement proceedings, if at all possible. Therefore, it is suggested that you meet with (name of EOS), Equal Opportunity Specialist, at (time) on (date) at this office, to conciliate a resolution of these deficiencies. Please contact (name of EOS) or his/her supervisor (name of supervisor) at (phone number) to confirm this meeting or to arrange another mutually acceptable time or date. While additional conferences will not result in an extension of the 30-day period, they may expedite your firm's attainment of a satisfactory compliance status.

Sincerely,

Enclosure

Figure 8-9 Basic show cause notice format (construction) for contractor failure to meet minimum utilization goals and adequately show good faith efforts to implement its affirmative action obligations.

B & V Construction Company
Somewhere, Pennsylvania 16543

Deficiencies and Corrective Action Necessary to Achieve Compliance

1. Deficiency. The B & V Construction Company during the period (months, year) failed to utilize a sufficient number of minority carpenters to achieve the Pittsburgh, Pa., Area goal of 11.8%-12.9%.

Corrective Action. Develop a written action plan to increase the employment of minority carpenters to at least the minimum requirement of 11.8 % of the total hours worked by all carpenters each month until the Federal contract is completed. Indicate timetables for each action.

2. Deficiency. The B & V Construction Company has not appointed an EEO Officer with assigned responsibility to implement its EEO program.

Corrective Action. Within the next 30 days develop a written outline of the EEO Officer's duties with authority to carry out all EEO activity within the program; establish and fill the position, and inform the workforce of his/her present responsibilities and availability.

3. Deficiency. The B & V Construction Company has not developed a written EEO policy statement for dissemination.

Corrective Action. Develop an EEO policy statement within the next 30 days. Distribute a copy of this policy to each employee and permanently post it, as appropriate, on bulletin boards in the office area and on the job site.

4. Deficiency. The B & V Construction Company has not notified community organizations of its EEO policy.

Corrective Action. Direct your recruitment efforts both orally and in writing within the next 15 days to at least the following womens' and minority organizations: ______________________.

Figure 8-10 Enclosure format to basic show cause notice (construction) for contractor failure to meet minimum utilization goals and adequately show good faith to implement its affirmative action obligations.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. John R. Volt
President
Nowhere Furniture, Inc.
Nowhere, Pennsylvania 15219

Dear Mr. Volt:

On (date), we issued your firm a notice to show cause why enforcement proceedings, under Sections 208 and 209(a) of Executive Order 11246, as amended, should not be instituted.

On (date), representatives of your firm and this office concluded a conciliation agreement which addressed each of the deficiencies cited in the show cause notice. Therefore, the notice to show cause is rescinded. However, if the commitments set forth in the agreement are not carried out, we shall give notice of initiation of appropriate enforcement proceedings, in accordance with the provisions of the conciliation agreement and the Executive Order.

This recision is subject to the review of the Director of the Office of Federal Contract Compliance Programs. You are also reminded that the commitments contained in the conciliation agreement do not preclude future determinations of noncompliance based on a finding that the commitments are not sufficient to achieve compliance.

Figure 8-11 Format for recision letters.

SAMPLE CONCILIATION AGREEMENT

BETWEEN

U.S. DEPARTMENT OF LABOR

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

AND

XYZ CORPORATION
1000 Extrapolation Drive
Feedback Loop, VA 12345

PART I: GENERAL PROVISIONS:

1. This Agreement is between the Office of Federal Contract Compliance Programs (hereinafter OFCCP) and XYZ Corporation, Feedback Loop, VA (hereinafter XYZ).

2. The problem areas identified in this Agreement were found during the Compliance review* of the XYZ Corporation which commenced December 5, 1978 and they were specified in the show cause notice issued December 29, 1978. OFCCP alleges that XYZ Corporation has violated (cite jurisdictional basis, e.g., Executive Order 11246, as amended, or Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974**) and their implementing regulations by submitting an AAP which did not contain a workforce analysis meeting the requirements of 41 CFR 60-2.11(a); failing to list appropriate employment openings with the local office of the State Employment Service as required by 41 CFR 60-250.4(c); and failing to develop and include in its AAP a schedule for review of its job qualification requirements.

3. This Agreement does not constitute an admission by XYZ of any violation of (cite jurisdictional basis, e.g., Executive Order 11246, as amended or Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974.**) The provisions of this Agreement will become part of the XYZ's Affirmative Action Program.

   Subject to the performance by XYZ of all promises and representations contained herein and in its Affirmative Action Program, all identified problem areas in this agreement in regards to the compliance of XYZ with (cite jurisdictional basis, e.g., Executive Order 11246, as amended, or

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* Or, as appropriate, preaward review or complaint investigation.

** Or, when appropriate, Section 503 of the Rehabilitation Act of 1973, as amended.

Figure 8-12 Sample Format for Conciliation agreement

Section 402 of the Vietnam Veterans Readjustment Assistance Act of 1974*) shall be deemed resolved. However, XYZ is advised that the commitments contained in this agreement do not preclude future determinations of noncompliance based on a finding that the commitments are not sufficient to achieve compliance.

4. XYZ agrees that OFCCP may review compliance with this Agreement. As part of such review, OFCCP may require written reports, inspect the premises, examine witnesses and examine and copy documents.

5. Nothing herein is intended to relieve XYZ from compliance with the requirements of (cite jurisdictional basis).

6. XYZ agrees that there will be no retaliation of any kind against any beneficiary of this Agreement, or against any person who has provided information or assistance, or who files a charge, or who participates in any manner in any proceeding under Executive Order 11246, as amended, or Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974*, or any other equal employment statute or Executive Order.

7. This Agreement will be deemed to have been accepted by the Government on the date of signature unless it has been disapproved by the Director, OFCCP within 45 days of the Director's receipt of the Agreement.

8. 1) If, at any time in the future OFCCP believes that XYZ has violated any portion of this Agreement, XYZ will be promptly notified of that fact in writing. This notification shall include a statement of the facts and circumstances relied upon in forming that belief. In addition, the notification will provide XYZ with 15 days to respond in writing except where OFCCP alleges that such delay would result in irreparable injury.

   2) It is understood that enforcement proceedings for violation of this agreement may be initiated at any time after the 15-day period has elapsed (or sooner if irreparable injury is alleged) without issuance of a show cause notice.

   3) It is recognized that where OFCCP believes that XYZ has breached the conciliation agreement, evidence regarding the entire scope of XYZ's

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* Or, when appropriate, Section 503 of the Rehabilitation Act of 1973, as amended.

Figure 8-12

alleged noncompliance (which gave rise to the show cause notice)* from which the conciliation agreement resulted, in addition to evidence regarding XYZ's alleged violation of the conciliation agreement, may be introduced at the enforcement proceeding.

4) It is further recognized that liability for violation of this Agreement may subject XYZ to sanctions set forth in Section 209 of the Executive Order and/or appropriate relief, or to the sanctions set forth in §60-250.28 of 402.**

PART II: SPECIFIC PROVISIONS

1. Problem Areas. The AAP submitted by XYZ Corporation did not contain a workforce analysis meeting the requirements of 41 CFR 60-2.11(a).

   Remedy. XYZ developed, and included in the AAP, a workforce analysis meeting the requirements of 41 CFR 60-2.11(a). This analysis was completed and incorporated into the AAP on January 8, 1979.

2. Problem Areas. The XYZ Corporation did not list appropriate employment openings with the local office of the State Employment Service in violation of 41 CFR §60-250.4(c).

   Remedy. The XYZ Corporation began, on January 8, 1979, to list appropriate employment openings with the local office of the State Employment Service in conformance with 41 CFR §60-250.4(c).

3. Problem Areas. The XYZ Corporation did not develop and include in its AAP a schedule for review of its job qualification requirements in violation of 41 CFR §60-741.6(c)(1).

   Remedy. The XYZ Corporation developed a schedule for the review of all physical or mental job qualification requirements meeting the provisions of 41 CFR §60-741.6(c)(1). This schedule was completed and incorporated into the AAP on January 8, 1979.

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* Only necessary when show cause notice has been issued.

** Or, when appropriate, to the sanctions set forth in §60-741.28 of 503.

Figure 8-12

PART III: REPORTING

XYZ also agrees to provide OFCCP with a quarterly listing of appropriate employment openings submitted to the local State Employment Office beginning on April 1, 1979.

This Conciliation Agreement shall remain in full force and effect until such time as XYZ is found by OFCCP to have met all of the terms of this Agreement.

PART IV: SIGNATURES:

This Conciliation Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and the XYZ Corporation, Feedback Loop, VA.

Date:______1/15/79_____________

_________(Signature)___________
Name
Executive Vice President
XYZ Corporation
1000 Extrapolation Drive
Feedback Loop, VA

Date:______1/21/79____________

_________(Signature)__________
Name
Area Office Director
Office of Federal Contract
Compliance Programs
Richmond, VA

Date:______1/28/79_____________

_________(Signature)___________
Name
Assistant Regional Administrator
Office of Federal Contract
Compliance Programs
Philadelphia, PA

Figure 8-12

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. John R. Volt
President
Nowhere Furniture, Inc.
Nowhere, Pennsylvania 15219

Dear Mr. Volt:

On (date) we concluded a conciliation agreement with your firm. This agreement set forth your firm's commitments to undertake specific corrective actions to remedy the deficiencies which were cited in our notice to show cause dated (date).

A review of your compliance with this agreement was completed on (date). The results of this review indicate that there is reason to believe that your firm has failed to comply with commitments set forth in the agreement. These commitments, as well as the facts and circumstances which give rise to this belief, are specified in the enclosure.

It is the determination of this office that irreparable injury will result if enforcement proceedings are not initiated immediately. Set forth in the enclosure are our reasons for believing that irreparable injury will occur if immediate action is not taken. Accordingly, as provided in section _____ of the conciliation agreement between this office and your firm, we are notifying you of our intent to immediately initiate enforcement proceedings pursuant to (41 CFR 60-1.26(b)/60-741-29/250.29).

Sincerely,

Enclosure

Figure 8-13 Format for notices of alleged noncompliance where irreparable injury is alleged.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. John R. Volt
President
Nowhere Furniture, Inc.
Nowhere, Pennsylvania 15219

Dear Mr. Volt:

On (date) we concluded a conciliation agreement with your firm. This agreement set forth your firm's commitments to undertake specific corrective actions to remedy the deficiencies which were cited in our notice to show cause dated (date).

A review of your compliance with this agreement was completed on (date). The results of this review indicate that there is reason to believe that your firm has failed to comply with commitments set forth in the agreement. These commitments, as well as the facts and circumstances which give rise to this belief, are specified in the enclosure.

Accordingly, pursuant to the provisions of the conciliation agreement between this office and your firm, we are affording you 15 days from the date of your receipt of this notice to demonstrate (through the written presentation of facts and evidence) that you have complied with the specified provisions of the agreement. If you fail to do so within the time specified, we shall initiate enforcement proceedings, pursuant to (41 CFR 60-1.26(b)/60-741.29/60-250.29) as provided in section _____ of your firm's agreement with this office.

Sincerely,

Enclosure

Figure 8-14 Basic format for notices of alleged noncompliance.

Commitments In Regard To Which Nowhere Furniture, Inc. Is Believed To Be In Noncompliance; Facts and Circumstances Relied Upon In Forming That Belief

1. Commitment. To afford members of the affected class an opportunity to bid upon any position in the Finishing Department, utilizing their company seniority (provision _______ of the conciliation agreement).

Facts and circumstances. Examination of bid postings, and interviews with Finishing Department Supervisors and affected class members indicate that affected class members have been allowed to bid only on entry-level positions in the department, and that job seniority continues to be utilized in determining the successful bidders for above entry-level positions.

2. Commitment. To "red-circle" the wages (including incentive rates) of all affected class members transferring into the Finishing Department (provision _______ of the conciliation agreement).

Facts and circumstances. Examination of pay records indicates that the wages of transferring affected class members were not red circled.

3. Commitment. To implement the affirmative action plan (AAP) referenced in the agreement (provision _______ of the conciliation agreement).

Facts and circumstances. Minority and female placement goals for the following job groups have not been attained: entry level positions, Finishing Department; Accountants, Attorneys. Interviews with representatives of the recruitment sources which are listed in the AAP indicate that they have never been requested to refer applicants to Nowhere Furniture, Inc.

4. Commitment. To ensure that affected class members wishing to transfer to the Finishing Department are not harassed, intimidated or interfered with in any way (provision _______ of the conciliation agreement).

Facts and Circumstances. John Jones, the foreman in the Finishing Department, threatened that he would "get a gun and shoot" Joseph Smith, a member of the affected class, because Smith applied for a job in the Finishing Department.

Allegation of irreparable injury. John Jones' statement has placed Joseph Smith in fear of his life.

Figure 8-15 Enclosure format for notices of alleged noncompliance.

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